7/18/77 [2]

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THE WHITE HOUSE
WASHINGTON

July 18, 1977

Stu Eizenstat -

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Bob Lipshutz

Re: Death Penalty in the United States

~~CONFIDENTIAL~~ ATTACHMENT

THE WHITE HOUSE
WASHINGTON

~~confidential~~

"DETERMINED TO BE AN ADMINISTRATIVE MARKING CANCELLED PER E.O. 12356, SEC. 1.3 AND ARCHIVIST'S MEMO OF MARCH 16, 1983"

ACTION	FYI	
☐	☐	MONDALE
☐	☐	COSTANZA
☒	☐	EIZENSTAT
☐	☐	JORDAN
☐	☒	LIPSHUTZ
☐	☐	MOORE
☐	☐	POWELL
☐	☐	WATSON

☐ ENROLLED BILL
☐ AGENCY REPORT
☐ CAB DECISION
☐ EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

☐ FOR STAFFING
☐ FOR INFORMATION
☒ FROM PRESIDENT'S OUTBOX
☐ LOG IN/TO PRESIDENT TODAY
☐ IMMEDIATE TURNAROUND

☐	☐	ARAGON
☐	☐	BOURNE
☐	☐	BRZEZINSKI
☐	☐	BUTLER
☐	☐	CARP
☐	☐	H. CARTER
☐	☐	CLOUGH
☐	☐	FALLOWS
☐	☐	FIRST LADY
☐	☐	GAMMILL
☐	☐	HARDEN
☐	☐	HOYT
☐	☐	HUTCHESON
☐	☐	JAGODA
☐	☐	KING

☐	☐	KRAFT
☐	☐	LANCE
☐	☐	LINDER
☐	☐	MITCHELL
☐	☐	POSTON
☐	☐	PRESS
☐	☐	B. RAINWATER
☐	☐	SCHLESINGER
☐	☐	SCHNEIDERS
☐	☐	SCHULTZE
☐	☐	SIEGEL
☐	☐	SMITH
☐	☐	STRAUSS
☐	☐	WELLS
☐	☐	VOORDE

THE PRESIDENT HAS SEEN.

CONFIDENTIAL

Stu -
check c̄ Atty
Gen &
comment
J

MEMO

TO: President Jimmy Carter
FROM: Morris Dees
DATE: July 12, 1977
SUBJECT: Death Penalty in the United States

Mr. President, I would urge your attention and possible action on the following aspects of the death penalty in the United States:

1. Death Penalty Study Commission

I urge you to establish a Presidential death penalty study commission. Twenty-five years ago, England abolished capital punishment based on the report of the Royal Commission on Capital Punishment. All credible scientific evidence concludes that the death penalty does not deter homicides. This is illustrated by the *decline* in homicides in the United States in 1975 and 1976 with no executions. The Supreme Court *did not* decide that the death penalty deterred but said the evidence was inconclusive. Of the 370 inmates now on death row in nineteen states, most are poor, uneducated and black. A few are innocent. As these people are executed, the death penalty will become the great moral and human rights crisis of this decade.

2. Presidential Public Statement

I urge you to make a public statement to Governors to make clemency the rule, not the exception and allow execution only in rare cases. Governors are concerned with the public opinion polls showing about two-thirds of the population in favor of capital punishment. During the 1950 and 60's when executions were common, only 40 percent favored capital punishment. The current increase in capital punishment support is caused by a rising crime

DETERMINED TO BE AN ADMINISTRATIVE
MARKING BY ____ DATE 11/1/89

rate and reflects a "vote against crime", not a studied opinion on executions. Political courage is needed in the face of a temporary public opinion shift that will surely reverse when executions resume.

3. Oppose a Federal Death Penalty

I urge you to oppose a federal death penalty. The pending bill, S. 1382, is about the worst death penalty bill that could be drafted. It is full of arbitrary possibilities and potential unfair applications. But the most important reason for you to oppose a federal death penalty is because the civilized world has virtually unanimously rejected this barbaric punishment. Canada has no death penalty. Nor does England, Italy, Germany, Sweden and thirty seven other nations. The United Nations Human Rights Commission has repeatedly called for the abolition of the death penalty. Even Mexico with its political turbulence has no federal death penalty and 22 out of her 29 states outlaw executions. Your opposition to a federal death penalty would further your already successful worldwide human rights stand.

4. Justice Department Monitoring Project

I urge you to direct the Civil Rights Division of the Justice Department to set up a death penalty monitoring project to report the racially discriminatory nature of the imposition of the death penalty. Of the 370 people on death row as of June 1, 1977, 178 or 48.1 percent were black. In Georgia, 32 of the 60 death row inmates are black. Many would argue that blacks commit about half the homicides even though they make up only 25 percent of Georgia's population, thereby making their disproportionate number on Georgia's death row explainable. But this simplistic answer fails to consider that 90 percent of black homicides are against other blacks yet all of Georgia's black death row inmates killed whites with the exception of two. This holds true in every southern state and even in states like Ohio. The simple truth is that prosecutors and juries reserve the death penalty for blacks who kill whites. I now represent 15 persons facing the death penalty and have handled over 75 death cases. I have never represented a black or a white who killed a black. All the whites on death row in the United States with the exception of a limited few killed other whites. The Supreme Court struck down the death penalty in 1972 because it was being discriminatorily applied by juries against poor and blacks. Many states passed new death penalty laws giving juries "guidelines". The Supreme Court upheld these laws in 1975 "on their face". The Court had no history to see if these new laws were being <u>applied fairly</u> and, if in fact, these jury guidelines were working to prevent a discriminatory application of the death penalty. A Justice Department monitoring project would simply report on what is in fact happening.

5. <u>Federal Legal Aid for Criminal Defendants</u>

I urge you to expand the Federal Legal Services Corporation to include legal aid for indigent criminal defendants. This would assist those facing capital charges. Most states provide only an inexperienced appointed lawyer for an indigent capital defendant. This lawyer gets about $250 in fees and <u>no</u> funds to employ investigators or experts. Even if one favors capital punishment, surely a sense of fair play would demand that before the accused be executed, he or she be given adequate legal resources approaching those a person with means would purchase. Our wild game laws offer more protection from illegal slaughter than most states provide to capital indigent defendants.

THE WHITE HOUSE
WASHINGTON

July 18, 1977

Z. Brzezinski -

The attached was returned in the President's outbox and is forwarded to you for passing on to Secretary Brown.

Rick Hutcheson

cc: Hamilton Jordan

Re: Defense Actions

~~SECRET~~ ATTACHMENT

~~SECRET~~

THE SECRETARY OF DEFENSE
WASHINGTON. D. C. 20301

C

July 15, 1977

MEMORANDUM FOR THE PRESIDENT

THE PRESIDENT HAS SEEN.

SUBJECT: Significant Actions, Secretary and Deputy Secretary of Defense
(Week of July 9 - 15, 1977)

1977 JUL 15

Meetings with Senators: As mentioned in last week's report, I have started a series of meetings with selected Senators to discuss foreign policy initiatives (i.e., Panama Canal treaty, Korean troop withdrawal, PRC, NATO). To date I have had meetings with Senators Chafee and Stevens. John Chafee is most supportive of the Panama Canal treaty proposal, and has offered to help influence others. Ted Stevens is far less optimistic that the time is right to raise the Panama Canal issue. He emphasizes that this is a political issue in which entrenched positions have been taken, making movement difficult even in the face of meritorious arguments. He recommends waiting until soon after the November 1978 elections to sign and send up a treaty.

Visit to the U.S.S. Saratoga: Charles Duncan accompanied Bert Lance, Graham Claytor and Landon Butler to the U.S.S. Saratoga on Tuesday. Several different types of carrier aircraft and their capabilities were demonstrated. The visit was marred, however, by an unfortunate accident involving a crash at sea of a AV-8 Harrier aircraft in which the pilot was lost.

Fort Monmouth Realignment: As you know, last March a decision was announced which would have consolidated certain Army Electronics and Communication Commands involving Fort Monmouth, New Jersey and facilities in Virginia, Maryland and New Mexico. Since then, Charles Duncan has spent considerable time reviewing the issue. Wednesday we announced a modified reorganization and realignment that divides the functions between Fort Monmouth and Vint Hill Farms in Virginia. This plan mitigates the job impact in New Jersey by some 300 jobs (425 vice 750 as originally proposed). On the other hand, the increases at the Vint Hill Farms facility will not be as large as originally expected -- the net increase will be about 200 jobs. We are satisfied that this realignment is efficient, economical, and the best resolution of the matter. Both New Jersey and Virginia will be dissatisfied (or ungrateful, depending on how you look at it).

Hearings related to unions in the military: The Military Personnel Subcommittee of the House Armed Services Committee (Chairman Richard White, D-Texas) will hold hearings next week on grievance procedures in the military. We have been advised that this hearing probably will explore some of the military unionization issues. Hearings on the latter subject scheduled by the Senate Armed Services Committee have been postponed. My present plan is to issue in the near future a carefully drawn directive on the subject rather than support legislative proposals which might not withstand legal attack. Also, the labor organizations can accept a directive but probably would oppose legislation which appeared anti-union.

Enhanced Radiation Warhead: In retrospect the action taken by the Senate on the enhanced radiation warhead appears to be acceptable. The vote on the merits was the 58-38 rejection of the Hatfield amendment. The Byrd-Baker amendment providing for certification and a two-house veto was to accommodate Senators who were concerned at the prospect of endorsing the production when you might later decide against it.

Classified by SEC DEF
SUBJECT TO GENERAL DECLASSIFICATION SCHEDULE OF
EXECUTIVE ORDER 11652. AUTOMATICALLY DOWNGRADED
AT TWO YEAR INTERVALS. DECLASSIFIED ON 31 DEC 85.

Jay 11/1/89 ~~SECRET~~ SEC DEF CONTR No. X-2082

CH-47 Helicopter Incident - North Korea: As of this time some details about the circumstances leading up to the incident remain to be clarified, as does the outcome. However, the speed of communications, the availability of real-time intelligence, and the facility with which the persons charged with responsibility for national security matters received information and worked together on Wednesday evening were encouraging to me.

Begin Visit: Prime Minister Begin may well raise four subjects with you concerning military hardware: F-16 aircraft for Israel, including co-production; FMS credits for expanding Israel's production of the Israeli-designed CHARIOT tank; a request for U.S. approval to develop and co-produce hydrofoils in Israel; and increased Israeli access to advanced weapons systems and military technology. (I shall provide you briefing papers.) With me he is expected to raise those same four items, plus others including Israeli interest in attack helicopters and in an advanced airborne signal intelligence system. Unless you prefer otherwise, I propose not to convey any U.S. decisions concerning approvals or intended approvals of military items for Israel. I shall if possible also seek to draw him out concerning Israel's defense planning. C

Hearings on Korea: Generals Brown and Rogers testified before the House Armed Services Committee (Congressman Stratton chaired) on Korea troop withdrawals. General Brown stressed that JCS support of the troop withdrawal was contingent upon congressional support and approval of the compensatory measures which are an essential element of the withdrawal plan. General Brown stated that the withdrawal plan was an additional, yet an acceptable risk, and that the JCS accept the President's plan because it includes compensatory measures for South Korea. He said he did not believe war is going to come because of the withdrawal.

Budget Amendment: On Wednesday the Senate Appropriations Committee by a vote of 9 to 5 deleted the $1.46B B-1 funding request from the appropriations bill. However, the Senate and House since have agreed to proceed with Senate floor action on the appropriations bill which the House has passed, i.e., without consideration of our budget amendment. After Congress reconvenes on September 7, they will take up the add-on portions of the budget amendment. I understand Senator Byrd is meeting with the Senate leadership today to firm up plans and set dates.

Meeting with Chancellor Schmidt: I met yesterday with Schmidt, covering many topics. He criticized the formality of the May Summit in London (as well as Luns' performance as chairman) and suggested that in Washington next year you take the chair, attendance be very limited, and the discussion be broadened to include SALT, MBFR, and political/economic issues. He interprets the Soviet buildup on the central front as an opportunistic reaction to anticipated NATO weakness. He agreed that NATO must not become a U.S.-German arrangement; pushed for us to buy European; described AWACS as needed militarily but a political problem for him; and declined to say whether the FRG was prepared to have SALT constrain GLCMs to less than 1500 km range. I can provide a more detailed memorandum of our conversation if you would like.

Items under separate cover: I am submitting to you separately today (1) an action to reduce the grade of the CINC, U.S. Naval Forces Europe; and (2) a detailed plan for resumption of status review of MIAs.

Harold Brown

cof

(5)

MEMORANDUM OF INFORMATION FOR THE FILE

EXECUTIVE
WH4
PR5-2
FE10
FG6-1-1/Lipshutz, R.
FG6-1-1/Carter, Hugh
FG6-1-1

DATE July 18, 1977

LET~~TER~~, MEMO, ~~ETC~~.

TO: Bob Lipshutz, Hugh Carter

FROM: Rick Hutcheson

SUBJECT: Proposed Procedures for the Disposition of Papers of White House Staff members.

Attachment:

Lipshutz/H.Carter memo undated re subject

CORRESPONDENCE FILED PRESIDENTIAL HANDWRITING FILE

AUG 31 1977
CENTRAL

THE WHITE HOUSE
WASHINGTON

July 18, 1977

Bob Lipshutz
Hugh Carter

The attached was returned in the President's outbox today and if forwarded to you for your information and appropriate handling.

Rick Hutcheson

cc: The Vice President
Midge Costanza
Stu Eizenstat
Hamilton Jordan
Frank Moore
Jody Powell
Jack Watson

RE: PROPOSED PROCEDURES FOR THE DISPOSITION OF PAPERS OF WHITE HOUSE STAFF MEMBERS

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
	✓	MONDALE
	X	COSTANZA
	X	EIZENSTAT
	X	JORDAN
X	~~X~~	LIPSHUTZ
	X	MOORE
	X	POWELL
	X	WATSON

☐	ENROLLED BILL
☐	AGENCY REPORT
☐	CAB DECISION
☐	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

☐	FOR STAFFING
☐	FOR INFORMATION
☒	FROM PRESIDENT'S OUTBOX
☐	LOG IN/TO PRESIDENT TODAY
☐	IMMEDIATE TURNAROUND

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
X	~~X~~	H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		GAMMILL
		HARDEN
		HOYT
		HUTCHESON
		JAGODA
		KING

		KRAFT
		LANCE
		LINDER
		MITCHELL
		POSTON
		PRESS
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SCHULTZE
		SIEGEL
		SMITH
		STRAUSS
		WELLS
		VOORDE

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT J. LIPSHUTZ
HUGH CARTER

SUBJECT: Proposed Procedures for the Disposition of Papers of White House Staff Members

Attached is a memorandum which we propose to send to all White House staff members.

The Senior Staff has reviewed this matter and submitted comments to an earlier memorandum. The attached memorandum reflects the judgment of the Senior Staff with respect to the disposition of the papers of departing staff members.

However, the attached memorandum makes certain assumptions related to decisions you have not yet made with respect to your personal papers and to the larger body of Presidential papers which by custom and tradition are deemed your property. We will submit to you not later than August 8, 1977 options and recommendations with respect to the disposition of these papers. Accordingly, you may wish to withhold judgment on the attached memorandum until you have reviewed our subsequent memorandum.

✓ Approve proceed

_______ Disapprove

_______ Withhold (We recommend)

Attachment

Add a paragraph limiting volume removed. Otherwise, someone wishing to abuse privilege could copy large number of papers & documents at gov't expense & carry them off -

J.C.

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR WHITE HOUSE STAFF MEMBERS

FROM: ROBERT J. LIPSHUTZ
HUGH CARTER

SUBJECT: Procedures for the Disposition of Papers of Departing Staff Members

By custom and tradition, papers originated, developed and received in the performance of a White House staff member's official responsibilities are regarded as the personal property of the President and are subject to such controls and disposition as the President may determine.

President Carter intends to make his papers public property by donating them to the federal government for deposit in a Presidential library at a site to be determined by him and which will be administered by the National Archives and Records Service.

With respect to Presidential papers originated, developed, collected or otherwise received and filed by White House staff members, President Carter has established the following policy, which he has requested that Bob Lipshutz and Hugh Carter execute:

1. Presidential Papers: The original where available, or a copy if the original is not available, of all papers filed in your office including, but not limited to, correspondence, drafts of Presidential speeches and messages, telephone records, internal and external memoranda, memoranda of conversations, memoranda to the files, official documents, other communications and clippings are considered Presidential papers. It is the responsibility of each departing staff member to deliver to Central Files, or to such other depository of Presidential papers as may be established, his or her Presidential papers. The only materials which a staff member may have filed in his or her office and which do not fall within the definition of Presidential papers are personal papers.

2. Personal Papers: Correspondence unrelated to any official duties performed by the staff member, personal

books, daily appointment books or logs, and copies of records of a personal nature relating to a staff member's employment or service are considered Personal papers.

3. Removal of Papers: Except as is provided in Paragraph 4 below, departing White House staff members may retain copies, not originals, of Presidential papers acquired in the course of their work at the White House. Personal papers may be removed from the White House without depositing file copies.

4. Classified Materials: A departing staff member may not retain the original or a copy of any document which is:

a. classified for reasons of national security pursuant to Executive Order 11652 or any successor thereto;

b. restricted data pursuant to the Atomic Energy Act of 1954 as amended;

c. submitted to the government pursuant to statutes which make disclosure of such information a crime;

d. submitted to the office of the Counsel to the President and which relates to the personal or financial affairs of any Administration nominee, proposed nominee or federal employee.

Permission may be granted to remove documents classified pursuant to subparagraphs (a) and (b) above if the departing staff member makes arrangements to store such documents in secure storage containers in an approved facility, and establishes a chain of secure custody over the documents. For example, a departing staff member could donate personal copies of classified materials to the Carter Presidential Library, or to the National Archives in anticipation of the establishment of such a library, where secure storage is available, and establish in the deed of gift a lifetime right of entry and access to such materials.

With respect to classified materials which are transferred to the Carter Library or to the National Archives without the personal donation described above, it is our intention to allow former staff members to have access to any classified materials which they originated (drafted), received, signed or received while working in the White House. The existing Executive Order controlling classified material permits this. We will support continuation of this policy in any subsequent Executive Order.

Exceptions to the above rules relating to classified and sensitive materials may be made exclusively by the Counsel to the President.

5. Departure Procedures: We plan to establish procedures to allow National Archives personnel to conduct "exit interviews" with departing staff members in order to identify the scope and content of a staff member's White House role and to aid in the future study of the Carter Administration. In addition, archival personnel may want to discuss filing procedures you have followed as well. It is the President's desire and expectation that departing staff members will cooperate in such interviews and in any review of files requested by archival personnel.

6. To Summarize: No Presidential paper shall be removed from the White House by a departing staff member unless the original, or a copy if the original is not in your files, is delivered to Central Files or to such other depository as may be established. No classified material shall be removed, except pursuant to approved procedures.

The President's willingness to allow White House staff members to remove such materials reflects his confidence in your judgment and discretion. He must assume that a departing staff member will not divulge information which would invade the personal privacy of any individual or would serve to undermine the President's ongoing programs and policies.

THE WHITE HOUSE
WASHINGTON

July 18, 1977

Secretary Califano
Stu Eizenstat
Hamilton Jordan
Frank Moore
Jack Watson
Bert Lance

Re: Labor-HEW Appropriations Bill

The attached was returned in the President's outbox and is forwarded to you for your information and appropriate action.

Rick Hutcheson

2

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

Stu and J

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

C

July 13, 1977

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

Stu - expedite
J

July 15, 1977

MEMORANDUM FOR: THE PRESIDENT

THE PRESIDENT HAS SEEN.

Stu - expedite
J

THE WHITE HOUSE

WASHINGTON

July 15, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT Stu

SUBJECT: Califano Memo on Labor-HEW Appropriations Bill

We have discussed the BEOGS issue with Secretary Califano and he agrees we should stress that we view the difference as one of estimation with the Administration and both Houses in agreement that the BEOGS entitlement should be set at $1600 per student. While preferring the Senate estimate as more accurate, we would make it clear that under either estimate we would proceed to fund at the $1600 level, returning any unused funds to Treasury.

With this clarification, I agree with the proposals Secretary Califano has outlined. OMB and Frank Moore concur.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

C

July 13, 1977

MEMORANDUM FOR THE PRESIDENT

FROM JOE CALIFANO

We have begun working with the House-Senate conferees on the Labor-HEW Appropriations Bill in an effort to achieve some reductions in the funding levels of HEW appropriations.

We are shooting high: to cut $471 million from the Senate bill and $120 million from the House bill.

If we meet those targets, the HEW, controllable portion of the bill will be lower than either the House or Senate bill. When the uncontrollables (Medicaid, Public Assistance, SSI) are included, we are lower than the House bill, but higher than the Senate bill because of the Senate's significant re-estimates. Those re-estimates may turn out to be correct, although we have our doubts about some of them.

I have my doubts about whether we can meet those targets, but that's where I plan to begin negotiating with the Senate and House conferees. I meet with Magnuson and Brooke tomorrow, and with all the House conferees on Monday.

The major items included in our recommended reductions are:

	Senate (in millions of dollars)	House (in millions of dollars)
Education		
Impact Aid	- 20	
Special Program for Disadvantaged (TRIO)		- 25
Health		
PHS Hospitals	- 135	
National Cancer Institute	- 70	
Health Manpower	- 53	
Welfare		
Head Start	- 60	

One of the student financing programs -- the Basic Education Opportunity Grants (BEOGS) -- was in the Carter budget and the House bill at $2.3 billion. We later determined that we had over-estimated the amount necessary by $230 million. The Senate reduced the BEOGS amount to reflect our new estimate.

We would like to persuade the House to accept the lower Senate-HEW estimate. We believe we can do this without violating the principles enunciated in the Vice President's speech to the NEA or our agreement with the House leadership. Our argument is that we are simply trying to reflect accurate estimates, and that we are not reducing amounts in the education budget.

Because of the exigencies of time I am moving tentatively with House and Senate members. It would be helpful to have your reaction to this strategy before I go formally before the House conferees on Monday morning.

Approved ✓ Disapproved ______

J.C.

July 18, 1977

Stu Eizenstat
Frank Moore

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

RE: SENATOR KENNEDY'S TAX REFORM PACKAGE

THE PRESIDENT HAS SEEN.

Stu
Good summary
J

THE WHITE HOUSE
WASHINGTON

July 14, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT
BOB GINSBURG Stu

SUBJECT: Assessment of Senator Kennedy's Tax Reform Package (Prepared at your request)

This memorandum briefly assesses the components of Senator Kennedy's tax reform program.

1. Cut marginal tax rates from 70 to 50 at top and 14 to 10 at bottom. Nature of new rate structure will depend upon amount of revenue we can raise from closing preferences, net amount of revenue we are willing to lose on an overall basis, and the effect of progressivity. Kennedy's rate structure is preferable to that currently being proposed by Treasury in that Kennedy would cut 2/7 at top and 2/7 at bottom while Treasury would cut 2/7 at top but only 1/14 (from 14 to 13) at bottom.

2. Substitute $200-250 general credit for present $750 personal exemption. Treasury currently proposes a $200 credit (plus $15 from energy program). Unlike the personal exemption, a credit is worth proportionately more to a poor family than to a wealthy family. You and the Vice President have supported the substitution of a credit for the existing exemption.

However, substitution of a $200 credit for the present $750 exemption would have a differential impact depending upon the level of income: taxpayers below the 27% bracket (200/750 = 27%) will benefit and those above will be worse off -- the break-even point for a $200 credit under present tax rates is about $14,000. (Credits also increase the existing tax advantages for large vs. small families below the break-even point and decrease the inter-family spread above the break-even point.) Accordingly, a $200 credit would disadvantage a large part of the middle class.

One answer is to increase the size of the credit to, say, $250; this would raise the break-even point to somewhere in the $20,000-$25,000 range. On the other hand, Joe Pechman argues that since we are changing tax rates anyway, we can achieve a better distributional result for the middle class through rate cuts and a $1,000 exemption rather than through the credit -- he has prepared a memo showing that, at same revenue costs, he can get a 40% to 50% rate schedule using the $1,000 exemption compared to 13% to 50% with a $200 credit.

sounds good

3. Make the new tax credit refundable. Very costly (probably $2 billion or more). This would be a step toward a negative income tax and should be considered in connection with welfare reform. If we are to tie in with welfare reform, we may prefer to expand work incentives by enlarging the earned income credit instead of making the general credit refundable.

4. Repeal present preferential tax treatment for capital gains. ✓ We agree. This is in the Treasury program.

5. Tax capital gains on property passing at death or by gift. ✓ We agree. This is one of the most significant tax preferences, allowing large amounts of capital gains to be transferred from generation to generation without being subject to income tax, while capital gains made before death are. Also, if capital gains are to be treated as ordinary income, it is important that this preference be removed as well or else there will be tremendous "lock in" effects (incentive to hold on to securities to avoid tax) which adversely affect capital markets. This is a very large revenue item (about $7 billion) and very important for the overall progressivity of our program. This is not in Treasury's current program but we understand it may be included in the revised program to be presented to you on Friday. It will be very difficult to pass this through Congress but a tax package without this item would not be as bold and comprehensive as the one you may want.

6. Repeal the present 15% minimum tax on preference income. OK if we really eliminate the tax preference items which are hit by the minimum tax. If we do not or is some wealthy taxpayers could still avoid tax, we see no reason to remove this items.

7. Adopt a single rate schedule for all taxpayers. Would replace the existing four schedules for single persons, families, etc. and constitute a major step towards simplification. Pechman includes this in his Packages A and B. However, the effect would be to remove some of the tax advantage which families now have and would, therefore, cause major criticism. Pechman argues that the present system gives undue advantage to families with only one wage earner over single persons and families with two wage earners.

good idea - if fair

8. Reduce the "marriage penalty" by providing a tax credit for the second wage earner. Treasury currently proposes maximum credit fo $600. Pechman suggests a maximum of $2,500. ?

9. Convert the present deductions for mortgage interest, property taxes, and charitable contributions into credits.* Would tend to benefit middle income taxpayers who itemize as opposed to wealthy taxpayers. Would probably help charitable giving to churches but hurt it for universities. Considerable increase in complexity. Probably better to encourage people to move away from itemizing altogether.

10. Allow taxpayers who use standard deduction to itemize for items referred to in 9 above. Very costly and considerable increase in complexity. Instead of moving people away from itemizing, this would constitute a major move toward more itemizing. Would, however, help low and middle income taxpayers who presently take the standard deduction.

11. Repeal accelerated depreciation for real estate tax shelters (other than low income housing). We agree. This is in Treasury program (although not 100%). ✓

12. Repeal intangible drilling cost deduction for oil and gas. I agree ✓ This is the single major tax preference available to large oil companies (also for small producers) which is not available to other U.S. corporations. We will be subject to major criticism if we do not move against this preference (as well as percentage depletion for the small producers) as part of our reform program. On the other hand, we may be subject to charges of inconsistency in our energy program if we do. Dr. Schlesinger should be contacted before a decision here.

13. Adopt taxable bond option for state and local governments. We agree. This is in the Treasury program. ✓

14. Repeal the exclusion for interest on industrial development bonds. This is probably a good idea. Not in current Treasury program.

15. Repeal of itemized deduction for gasoline taxes. We agree. This is in the Treasury program. ✓

16. Repeal of deduction for interest on consumer debt.* This bears careful consideration. It is a large revenue item (about $2.5 billion). However, a large part of this deduction is taken by middle income taxpayers and it would be somewhat inconsistent to repeal this deduction and not do anything about mortgage interest.

---

* If we choose to propose a floor for all itemized deductions or a lower rate schedule for taxpayers who choose not to itemize, we will not have to make decisions or proposals on the separate itemized deductions.

17. Phase-out current deduction for medical expenses as National Health Insurance is phased in.* In the interim, the Treasury proposal of putting a floor on medical expenses and casualty losses makes better sense.

18. Eliminate deductions for state and local income and sales taxes and return revenues to states and localities.* This is worthy of consideration but would bear down hard on high income tax states (New York, Wisconsin, Minnesota, etc.) and would constitute a major change in direction. Treasury program would eliminate deduction for sales taxes.

It seems that it would help these states

19. Allow individual investors to deduct $9,000 of net capital losses. We would probably prefer Treasury proposal of $8,000 (greater the loss offset, greater the loss of revenue to Treasury).

close

20. Make existing 10% ITC refundable. Would help businesses which do not have tax liability. This is worth consideration but would be fairly expensive.

21. Extend refundability of ITC to non-profit institutions. Would also be costly. Since these institutions do not pay taxes, this would amount to a direct subsidy through the tax system, which we do not think can be justified.

No

22. Adopt new 5% incremental ITC. We regard this as the most preferable form of business tax relief. It specifically rewards above-average investment. Would have greater impact on business investment than any other form of tax reduction.

Pursue

23. Cut the corporate tax rate from 48 to 45. Provides general tax relief for all corporations, regardless of their investment situation. Probably the single most popular form of business tax relief. Could be included in a two-part business tax proposal: incremental ITC plus cut in corporate rates.

24. Crack down on corporate "expense account living". We agree and regard this as a necessary part of a credible tax reform program. This is not in the current Treasury program but we are hopeful that it will be included in the revised program to be presented to you on Friday.

include

25. Require accrual accounting for large farm corporations. We agree. This is in Treasury program. ✓

---

* See footnote on page 3.

26. Repeal the percentage depletion allowance for oil and gas and all other minerals. As noted above, you will have to make a general policy decision on the inclusion of oil preference items in the tax reform program. Current Treasury program cuts back percentage depletion for non-oil minerals by 50%. Consideration should be given to cutting it back 100%. I agree

27. Repeal the ADR system of accelerated depreciation. By itself, this could adversely affect business investment. OK only if the revenue gain is put into an ITC incentive.

28. Eliminate DISC. We agree. This is in Treasury's program. ✓

29. Eliminate the deferral of tax on profits of controlled foreign subsidiaries. We agree. At top of most tax reform lists, but a glaring omission from Treasury program. Deferral is a major incentive for U.S. multinational corporations to invest abroad (mostly in developed and semi-developed countries rather than LDCs) rather than in U.S. As such, it runs against our concern for domestic capital formation. Difficult to tell organized labor and average Americans that we don't care about this "runaway plant" provision. Makes little sense to go after DISC (which business will argue is an export incentive) but not deferral (incentive to move production abroad). Deferral is also a major source of complexity in the foreign tax provisions. You made numerous campaign statements urging repeal of deferral. ✓ I agree

30. Reform of estate tax provisions. These proposals are worth consideration but may be somewhat premature in light of a major (although imperfect) reform effort by Congress in 1976.

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
	X	EIZENSTAT
		JORDAN
		LIPSHUTZ
	X	MOORE
		POWELL
		WATSON

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		GAMMILL
		HARDEN
		HOYT
		HUTCHESON
		JAGODA
		KING

		KRAFT
		LANCE
		LINDER
		MITCHELL
		POSTON
		PRESS
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SCHULTZE
		SIEGEL
		SMITH
		STRAUSS
		WELLS
		VOORDE

Edward M. Kennedy
Massachusetts

United States Senate

Stu -
assess briefly -
marginal notes o.k.
J C

June 30, 1977

THE PRESIDENT HAS SEEN.

~~DT~~ To P.
-1 JUL 1977

The President
The White House

Dear Mr. President:

I'm grateful for your interest, and I'm very anxious to do anything I can to help.

Respectfully,

Ted

from the office of

Senator Edward M. Kennedy

of Massachusetts

SENATOR KENNEDY ASKS $28 BILLION COMPREHENSIVE TAX REFORM AND TAX SIMPLIFICATION PROGRAM

FOR ~~IMMEDIATE~~ RELEASE 9 A.M.
JULY 1, 1977

Senator Edward M. Kennedy today called for a $28 billion program of tax reform and tax simplification for individuals and corporations as a means of fulfilling the commitment to a comprehensive overhaul of the nation's tax laws.

In a 41-page Senate floor statement containing more than forty separate proposals, Kennedy urged President Carter "to be bold, and to encourage the Treasury, beset by lobbyists bent on retaining or winning special tax privileges to be bold as well."

Kennedy said he hoped his proposals would be a signal to the Administration that Congress not only would welcome far-reaching proposals by the Administration, but also would work closely with the Administration to enact fundamental tax reform and to achieve the three basic goals of fairness, simplicity, and efficiency in the income tax laws.

Kennedy's program consists of a balanced revenue package involving tax changes of $21 billion for individuals and $7 billion for corporations. Under his proposals, Kennedy said, the dollars raised from revenue-saving tax reforms would be recycled dollar for dollar to individuals through rate reductions and other tax relief, and to corporations by increases in the investment credit and a reduction in the corporate tax rate. In this way, Kennedy said,"we can insure that the revenue gains from the repeal or modification of tax preferences that unduly benefit selected taxpayers will be returned to all taxpayers in the form of across-the-board rate cuts."

Kennedy emphasized that the tax relief contained in his proposals for individuals would be extended to all taxpayers throughout the income scale, but that the primary relief would go to low and middle income taxpayers, especially homeowners and families with children.

Key features of Kennedy's reform proposals for individuals include:

-- A reduction in the current 14% to 70% tax rates on individuals to new rates ranging from 10% to 50%, with reductions at all intermediate levels as well. ok

-- A shift in the current $750 personal exemption to a new tax credit in the range of $200-250, depending on the revenues available. Kennedy said that a tax credit is worth more to low and middle income families than a tax deduction. The $750 deduction under current law brings a tax saving of $525 for personss in the top 70% bracket, but a saving of only $105 for persons in the bottom 14% bracket, he said. The tax credit proposed by Kennedy would provide the same relief to all taxpayers. ok

(MORE)

In the area of the corporate income tax, Kennedy made three major points:

-- The 10% investment tax credit now available for purchases of machinery and equipment should be made refundable, so that the benefits could be made available as a refund to corporations whose tax liability is not large enough to use the full current credit. The refundable investment credit has also been endorsed by Senator Russell Long, Chairman of the Senate Finance Committee. Kennedy said that the concept should also be applied for the benefit of hospitals and universities and other tax exempt organizations, who are also heavy purchasers of equipment and machinery, and who should not have to pay higher prices for such items than corporate purchasers. Extending the investment credit to such institutions, he said, would also be a stimulus to manufacturers of equipment and machinery.

-- An additional incremental credit of 5% should be granted for investment exceeding the average investment of the three prior years. The new incentive credit would also be made refundable.

-- The top corporate tax rate should be cut from 48% to 45%.

The investment credit changes will benefit new firms, small businesses and tax exempt institutions. The corporate rate changes will benefit a broad range of medium-sized and larger firms. Both changes will encourage increased capital formation, he said.

In addition, Kennedy proposed a variety of steps to curtail tax-subsidized "expense account living," including denial of deductions for business meals ("Everybody has to eat," Kennedy said), yachts, country clubs, tickets to sporting events, theaters, and similar entertainment, and the first class portion of air fare. He also called for an IRS crackdown on abuses of corporate jets and conventions, and said that deductions for travel away from home should be limited to the government <u>per diem</u> amount. Kennedy called abuses in this area a source of substantial irritation to the average taxpayer. "There are few more vivid symbols of the disgrace of our current tax laws than the martini lunch, the first class fare, and the front row seat," he said.

Other tax reforms proposed by Kennedy in the business and corporate area include a requirement of accrual accounting for large farm corporations, and complete repeal of the following tax preferences: the percentage depletion allowance for oil and gas and all other minerals; the ADR system of accelerated depreciation; the preferential capital gains tax rate for corporations; the DISC tax subsidy for exports; and the tax deferral allowed for earnings of foreign subsidiaries of U.S. corporations.

In the estate tax, Kennedy called for a series of improvements in the measure passed by Congress in 1976, including a halt to the estate tax exemption at the $120,000 level, rather than the $175,000 level now scheduled for 1981, and a closing of the loopholes in the generation skipping tax enacted in 1976.

Kennedy also urged the Administration to reject three specific proposals currently being discussed -- partial integration of corporate and individual income taxes, adjustments in the basis of property to reflect inflation, and a value added tax. Each of these proposals has serious flaws, said Kennedy, and could not be reconciled with tax reform goals.

In emphasizing the need for a balanced revenue package of tax reforms, Kennedy also noted that, apart from tax reform, additional

(MORE)

STATEMENT OF SENATOR EDWARD M. KENNEDY

"THE PATH TO FUNDAMENTAL TAX REFORM"

SENATE FLOOR
JULY 1, 1977

INTRODUCTION

The enactment of the massive Tax Reform Act of 1976 last October marked the end of a tax reform era -- an eight-year period in which Congress almost exclusively bore the burden of formulating and enacting reforms to make our tax laws more equitable and more rational.

The election of a President committed to comprehensive tax reform signalled the return to a more productive relationship in which Congress and the Executive Branch would once again be pulling together to provide the kind of tax system to which the American people are entitled.

Already we have seen the beneficial results of the change. President Carter has consistently stated and restated his commitment to fundamental tax reform. He has appointed a skilled and effective tax policy team at the Treasury under Secretary Blumenthal. Their work helped produce the major tax simplifications that were contained in the recent Tax Reduction and Simplification Act, signed by the President last May. In addition, under the Carter Administration, the Treasury has quickly reassumed its proper and fundamental role as a champion of the public interest and opponent of narrow, special interest tax preferences. Moreover, the President's appointment of vigorous yet sensitive tax administrators to head the Internal Revenue Service has already produced evidence of a new era of effective, simplified and impartial enforcement of our tax laws. President Carter deserves great credit for the outstanding appointments at the Treasury and the IRS. The public interest already is being well-served by these efforts and by the President's commitment.

I therefore want to take this opportunity to continue the cooperative exchange of views that has developed between Congress and the Carter Administration in the critically important area of tax policy.

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(MORE)

tax reductions might be justified as a matter of fiscal policy or to counteract the effects of continuing high inflation, which pushes taxpayers into higher rate brackets. But Kennedy said a revenue loss on tax reform itself could not be justified, given the Administration's emphasis on a balanced revenue package for welfare reform, a balanced Federal budget by 1981, and the need for additional revenues for essential new programs like national health insurance.

Kennedy specifically praised President Carter's commitment to tax reform, and commended the ability and efforts of the President's new tax team at the Treasury and the IRS. He called for continued cooperation between the Administration and Congress to achieve tax reform and to create a tax system that is a model of equity, simplicity, and efficiency for all taxpayers.

Referring to Secretary of Treasury Blumenthal's speech on tax reform last Wednesday in Washington, Kennedy said he agreed with the Secretary's view that the proper approach to tax law changes should be "reformist," rather than "radical." Kennedy specifically praised Blumenthal's emphasis on preserving the income tax as the centerpiece of the American tax system, and rejecting radical approaches like a value added tax.

Kennedy noted that the reformist approach was clearly consistent with fundamental and far-reaching reforms, and praised the indication by Secretary Blumenthal that the Administration was giving serious consideration to complete repeal of the tax preference for capital gains. In urging the Administration to adopt a bold approach, Kennedy said he hoped his proposals would be a source of encouragement and support for all those in the Administration seeking genuine tax reform. "Clearly," said Kennedy, "we have to go substiantally beyond the level of the Tax Reform Act of 1976 to justify the label of 'reform.' Congress should not be put through the labor of tax reform, only to produce another mouse."

"Obviously," said Kennedy, "those who benefit handsomely from current loopholes will reject any tax reform at all as 'radical.' But the fact is that my proposals would affect only $28 billion -- or only 23% -- of the total $125 billion in tax expenditures estimated for 1978. Nearly $100 billion in current tax subsidies would be preserved, including the tax exemptions for Social Security benefits and private pension plan contributions, the small business surtax exemption, and a variety of other tax benefits in current law."

"The aim of tax reform is not to plow up the whole garden," said Kennedy, "but to get rid of the weeds so that we can let the flowers grow."

STATEMENT OF SENATOR EDWARD M. KENNEDY

"THE PATH TO FUNDAMENTAL TAX REFORM"

SENATE FLOOR
JULY 1, 1977

INTRODUCTION

The enactment of the massive Tax Reform Act of 1976 last October marked the end of a tax reform era -- an eight-year period in which Congress almost exclusively bore the burden of formulating and enacting reforms to make our tax laws more equitable and more rational.

The election of a President committed to comprehensive tax reform signalled the return to a more productive relationship in which Congress and the Executive Branch would once again be pulling together to provide the kind of tax system to which the American people are entitled.

Already we have seen the beneficial results of the change. President Carter has consistently stated and restated his commitment to fundamental tax reform. He has appointed a skilled and effective tax policy team at the Treasury under Secretary Blumenthal. Their work helped produce the major tax simplifications that were contained in the recent Tax Reduction and Simplification Act, signed by the President last May. In addition, under the Carter Administration, the Treasury has quickly reassumed its proper and fundamental role as a champion of the public interest and opponent of narrow, special interest tax preferences. Moreover, the President's appointment of vigorous yet sensitive tax administrators to head the Internal Revenue Service has already produced evidence of a new era of effective, simplified and impartial enforcement of our tax laws. President Carter deserves great credit for the outstanding appointments at the Treasury and the IRS. The public interest already is being well-served by these efforts and by the President's commitment.

I therefore want to take this opportunity to continue the cooperative exchange of views that has developed between Congress and the Carter Administration in the critically important area of tax policy.

For the consideration of the Administration, the Congress, and others interested in these basic issues, I am submitting today a series of proposals for fundamental tax reform. It is my hope that these recommendations will provide a useful framework within which consideration and evaluation of various proposals for tax reform can take place.

Particularly, it is my hope that the tax reform studies currently under way in the Treasury will produce Administration recommendations that will clearly constitute "fundamental tax reform." Undoubtedly there will be some differences in detail. But I look forward to working with the Carter Administration, the Chairman and members of the Senate Finance Committee, and others in Congress to produce in 1978 a tax bill that will insure a fairer, more simple and more rational tax system for all Americans.

In my remarks today, I will outline the major elements of my proposals. The details of these recommendations will be worked out and presented to the Senate in the coming months as consideration of tax reform accelerates.

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8.	DISC	1.2
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B.	PROPOSALS TO STIMULATE CAPITAL INVESTMENT	
1.	Refundable and Incremental Investment Tax Credit	(-)3.8
2.	Reduction in Corporate Tax Rate from 48% to 45%	(-)3.6
3.	Total Revenue Loss	(-)7.4

I. FUNDAMENTAL TAX REFORM: THE BASIC THEMES

I strongly agree with President Carter and Secretary Blumenthal that three basic themes must guide our tax reform deliberations and govern the contents of the next tax reform bill:

- -- Fairness;
- -- Simplicity; and
- -- Efficiency.

Fairness in the context of the individual income tax requires that we correct the elements in the system that impair the progressivity of the income tax. The progressivity principle states that those who have derived greater monetary benefits from our economic system should contribute relatively larger amounts to the conduct of government than those who have received fewer benefits. This principle is widely accepted as a proper measure of "fairness" by the American people.

But scores of provisions in the Internal Revenue Code violate this principle and permit thousands of high income individuals to pay little or no federal income tax. In 1974, for example, over 3,000 individuals with adjusted gross incomes in excess of $50,000 paid no federal income tax. A recent Treasury study indicates that this group was only the tip of the iceberg -- many thousands of additional high income persons pay an effective rate of tax equal to that paid by the $10,000 a year wage earner.

The changes made by the Tax Reform Act of 1976 in the minimum tax leave this problem largely untouched, and do not affect at all the thousands of high income "zero-taxpayers" who still continue to receive a free ride under our tax laws. This situation is unacceptable. The "fairness" principle requires that in the next tax reform act, we must insure greater progressivity in our income tax system by curtailing the tax preferences that permit high income individuals to pay little or no federal income taxes.

Simplicity has multiple aspects. For the great majority of taxpayers, income is derived primarily from wages. For them, tax simplification requires a shorter and more readily understood tax form -- a return that can be prepared and filed by the individuals themselves, without the necessity of paying someone else to prepare their returns.

There is another aspect of the simplicity theme that must be recognized: The greatest source of complexity in our current tax system is the existence of tax expenditures. The decisions to run between 80 and 90 federal spending programs through the Internal Revenue Code have made our income tax system inordinately complex. It is extremely difficult to administer and it is virtually impossible to understand. How, for example, can the IRS be asked to develop a simple tax return form, when it must include schedules and lines for 80 or 90 Federal spending programs, in addition to those required for the actual tax collection process? Congress must accept the fact that the use of tax expenditures is incompatible with the simplification goal. New tax expenditures automatically mean greater complexity; reduced reliance on tax expenditures automatically insures greater tax simplification.

Efficiency as a theme relates principally to the allocation of resources in our economy. It affects primarily our methods of taxing corporate, business and investment income, although it also has substantial application to tax expenditures for individuals. The goal is to reduce wasteful and artificial tax inducements to particular forms of economic behavior that distort our free market system and produce inefficiencies in the allocation of available capital resources. We must examine closely each existing and proposed tax incentive -- eliminate the inefficient incentives, insure that the incentives we do employ are structured in the most efficient form, and employ the most effective tax tools to encourage capital formation.

Experience in recent years has taught that the goals of fairness, simplicity and efficiency are not always compatible. It is often difficult, for example, to achieve complete fairness in a simple way. Conversely, simplification cannot become an excuse for intolerable inequities. But we can and should test each proposal against each of these standards, to insure that a particular recommendation does not achieve one goal at an excessive cost in terms of the other two. We should, for example, reject any tax proposals to achieve capital formation that make the tax system unacceptably unfair or too complex.

We cannot expect to achieve fully these goals in every area. In some instances we may only be able to move part way. But the Tax Reform Act of 1978 will constitute a giant step in the right direction if we can insure that all provisions adopted move in the direction of achieving our basic goals of fairness, simplicity and efficient allocation of capital resources.

II. THE FEDERAL TAX SYSTEM: AREAS FOR REFORM

A serious problem that has plagued tax reform efforts in recent years has been the piecemeal nature of the efforts. Since the 1968 Treasury Tax Reform Studies and Proposals, Congress has not been presented with, or developed for itself, a comprehensive and workable overview within which tax revision proposals may be considered. Fundamental tax reform requires that the entire federal tax system be considered. Changes in one area of the tax system have ripple effects in others. Some are progressive and others are regressive. Ideally, fundamental tax reform should also include consideration of the Social Security tax and the proposed new energy taxes, although, so far, Congress and the Administration have been treating these taxes on separate tracks.

My proposals today are intended to present a set of comprehensive and consistent reforms in the following areas:

-- Individual income taxation.
-- Corporate and business income taxation.
-- Taxation of international transactions.
-- Wealth transfer taxation.

As I outline my recommendations in each area, I will indicate how the proposals help to achieve greater fairness, simplicity and efficiency.

III. TAX REFORM AND REVENUE BALANCE

In approaching fundamental tax reform, my proposals provide a balanced package in terms of Federal revenues. Revenues gained from reform of the taxation of individuals should be returned to individual taxpayers in the form of rate reductions or other tax relief. The balance is a dual one -- there is no net loss of revenues arising from changes in individual income taxes and no net loss arising from changes in corporate and business taxes.

The use of tax reform revenues clearly focuses on the questions of national priorities that confront us. It is difficult, for example, to justify an emphasis on a balanced revenue package in the area of welfare reform, while refusing to require such a balance in tax reform. We also must be concerned about the revenues needed to implement a program of national health insurance, an area in which the Administration has promised to submit its plan by early 1978. Finally, it is difficult to reconcile a negative balance on tax reform with the Administration's emphasis on a balanced Federal budget in fiscal year 1981.

To a large extent, the pressure for a negative revenue balance from tax reform appears to have resulted from the initial focus by some in the Administration on proposals for "corporate integration," and the large revenue loss associated with such proposals. Now that the Administration's focus on "integration" seems to be reduced, we may hope that the pressure for a negative revenue balance in the Administration's proposals will also decline.

As a matter of fiscal policy, of course, there may be a need in 1978 for additional stimulus to the economy in the form of tax reductions. In addition, if inflation continues at its current high and unsatisfactory level, it may be necessary to enact tax reductions to offset the impact of the inflation. But these issues should be considered apart from the revenue effects of the tax reform proposals. In this way, we can keep our priorities straight, without tilting the scales against other important social priorities, including the President's goal of a balanced Federal budget.

IV. INDIVIDUAL INCOME TAXATION

A. TAX RATES

1. Repeal of Preferential Rates for Capital Gains. Presently, capital gains are taxed at only one-half the rates applicable to ordinary income. But, a dollar of capital gains income is equivalent in a practical sense to a dollar of wage income. They look the same and they spend the same.

The preferential rate of tax for capital gains in the current tax laws is one of the major causes of tax inequity. It is also the source of many of the most complex provisions in the Internal Revenue Code. Taxpayers and their advisers spend inordinate amounts of time looking for capital gain investments, and trying to convert ordinary income transactions into capital gain deals. These efforts produce serious inefficiencies and distortions in our economic system.

Under the reform I propose, capital gains would be taxed like ordinary income. Income averaging and the benefits of installment reporting of income will continue, so that income bunched in a single year need not create an undue tax burden.

The reduction to 50% in the top marginal tax rate suggested below will produce a top rate on capital gains that is almost the same as that under present law, when the minimum and maximum taxes are taken into account. Repeal of the capital gains preference will increase the fairness of the tax system; it will vastly simplify it; and it will remove a serious artificial consideration in the allocation of capital resources.

2. Rate Schedule Ranging from 10%-50%. The reforms discussed below, coupled with removal of the capital gains preferences, will permit a reduction in tax rates for all taxpayers. A reduction of the starting rate from 14% to about 10% would be highly beneficial for lower income workers. A top marginal rate of 50% would insure that natural incentives for work and investment would be enhanced. Correspondingly, rates throughout the scale would be reduced proportionately.

It must be emphasized, however, that reduction of the top rate to 50% cannot be adopted unless the special rates of tax on capital gains are eliminated and the income tax is imposed on the gains in property passing at death (as discussed below). Reducing the rate to 50% without adopting the proposed changes in the treatment of capital gains will simply produce a tax windfall for the rich, without any compensating gains in fairness, simplicity or efficiency.

3. Repeal of Minimum and Maximum Tax Rates. Adoption of the reforms I propose will permit the repeal of both the minimum tax and the maximum tax in current law. The major preferences to which the 15% minimum tax applies -- such as capital gains -- would be repealed, so that the minimum tax would become unnecessary. Reduction of the top marginal rate from 70% to 50% would subject unearned income to the present 50% maximum rate on earned income.

B. PREFERENTIAL TAX DEDUCTIONS

1. Tax Shelter Items. Despite restrictions imposed by the 1976 Act on the rules utilized to create tax shelters, evidence is beginning to accumulate that the tax shelter industry is adjusting to the changes. Tax shelter deals are still being marketed in abundance. It is apparent that what is needed is elimination of the fundamental preferences on which tax shelter deals are constructed.

I propose that Congress take the following necessary actions to see that the word "shelter" disappears from the tax vocabulary.

a. Repeal Accelerated Depreciation for Real Estate. The real estate tax shelter was left untouched by the 1976 Act. The unfair and inefficient subsidy provided through accelerated depreciation should be eliminated over a 5-year period of time. As I have emphasized on other occasions, low income housing must be exempted from this change until a new Federal housing program is in place that is fairer and more rational than the present wasteful system. Fortunately, the appropriate committees in the Senate and House have commenced studies on possible approaches -- both tax and direct -- that would correct the present defects. A report of the Congressional Budget Office has documented the waste in the present system and suggested various approaches to reform.

However, there is no need to delay action to terminate the current tax subsidies for high rise office buildings, luxury apartments, beach front condominiums, movie theaters, and shopping centers. These loopholes should be closed as part of the 1978 reforms.

b. Repeal Intangible Drilling and Development Cost Deduction. The principal component of the oil and gas tax shelter is the special deduction for "intangible" drilling and development costs. These are capital costs that should be deducted ratably over the life of the well. Instead, current law permits the immediate deduction of the full amount of the costs. Such tax treatment is contrary to the treatment of similar items in other industries, where such costs must be capitalized and recovered through depreciation.

The continued existence of the intangibles deduction is contrary to the emerging national energy policy. There is a broad consensus that we should allow oil and gas prices to rise to levels more nearly reflecting market prices. But the special deduction for intangible costs operates artificially to keep the price of oil and gas below market level. Distortions and inefficiencies are the inevitable result.

As was concisely stated in "The National Energy Plan" proposed by the President:

> "Tax benefits to producers and regulation of prices to consumers have kept the price of energy below its true replacement cost, and thereby promoted consumption and waste."

It is unfortunate that an ill-considered proposal to delete intangibles from the list of preferences subject to the minimum tax was included in the Carter energy plan. That is a step in the wrong direction which I hope Congress will soon reverse.

As we move toward a national energy plan, we must eliminate wasteful subsidies. The special deduction for intangible drilling and development costs should be repealed, both in the interest of greater tax fairness, and as part of the overall effort to construct an efficient and rational energy policy for the nation.

c. Regulatory Authority to Enable IRS to Combat Tax Shelters. Before the ink was dry on the Tax Reform Act of 1976, syndicators of tax shelters, their lawyers and accountants were busy devising new tax shelters to avoid the limitations of the Act. For example, advertisements are running in periodicals promoting investment in a rock record as a tax shelter for the individual investor.

Congress should not have to spend its time chasing tax shelter entrepreneurs. Congress simply cannot be involved in writing complex new provisions to shut down each new form of tax shelter as it is discovered. Therefore, the Treasury and IRS should be given regulatory authority under Congressional guidelines to close off new shelters by regulations.

In addition, as Commissioner Kurtz has suggested, the IRS should be empowered to join all members of a tax shelter in a single court proceeding when a tax deficiency is asserted against the individual partners. This change will insure more effective oversight of tax shelter operations and eliminate the waste of multiple court actions. Such a step is essential when some large tax shelter deals combine hundreds of investors.

2. Itemized Personal Deductions. The itemized personal deductions -- principally for interest, state and local taxes, medical expenses and charitable contributions -- constitute a a major source of revenue loss in the individual tax system. The Congressional Budget Office has estimated that these four items

will cost $33 billion in fiscal 1977 -- 30% of the total tax expenditures for that year. By 1982, CBO estimates that these four items will cost $45.0 billion.

In addition to the large revenue costs, these itemized personal deductions are the source of great tax unfairness and complexity in the income tax. The inequities have been widely recognized for years. The deductions are of no beenfit at all to the 75% of the people who do not have personal deductions in excess of their so-called zero bracket amount (the former standard deduction). As a result over $33 billion in federal subsidies in fiscal 1977 will be bestowed on the 25% of the people in the country with the highest incomes -- those who do not use the standard deduction.

This result is manifestly unfair, and a number of proposals have been advanced to reduce the inequity. Some have suggested placing a substantial floor under the itemized deductions. For example, the deductions might be limited to amounts in excess of 10% or 15% of adjusted gross income. Such action would effectively cut down the scope of the itemized deductions. But it would also continue the tax preferences for an elite and privileged few.

Although the "floor" approach is not without merit, perhaps as a transitional device, I believe it would be better to examine the itemized personal deductions individually, repealing those that cannot be justified and modifying others to make them fairer and more efficient.

a. Medical Expenses. Fundamentally, this deduction constitutes a national health insurance program for a limited group of citizens:

-- No benefits -- no health insurance plan -- is available for those who use the standard deduction.

-- For those who qualify because they are itemizers, there is a "deductible," equal to 3% of adjusted gross income; for most persons only relatively large medical costs are tax deductible.

-- There is also a "coinsurance" element, in which the coinsurance rate is a function of the individual's tax bracket. The higher an individual's income, the greater the percentage of his overall health bills that will be paid by the federal government. For an individual in the 70% bracket, the government pays $70 out of each $100 of medical bills above the deductible amount.

However, the government pays only $25 for a taxpayer in the 25% bracket.

In effect, we are running an "upside down" national health insurance plan through the tax laws. Virtually all those who itemize medical expense deductions do so because of their home mortgage interest and property tax deductions. Thus, the national health insurance program run through the medical expense deduction in the tax laws could properly be labeled the "National Catastrophic Health Insurance Program for Upper Income Homeowners."

A joke, perhaps. But the joke is on the taxpayer. I therefore propose that the medical expense deduction be phased out over a period of five years by increasing the present 3% floor, commencing the year a national health insurance program is enacted into law.

b. <u>Homeowner Mortgage Interest and Property Taxes</u>. The present deductions for homeowner interest and property taxes have the same upside down characteristic as the medical expense deduction. In effect, the federal government makes a portion of each such payment for the homeowner; the government's share is determined by the homeowner's tax bracket. The following table reflects the present tax subsidy for home ownership.

<u>$1,000 Interest and Taxes</u>

Tax Bracket	Homeowner's Share	Government Share
20%	$800	$200
40%	600	400
50%	500	500
60%	400	600
70%	300	700

Homeowners whose interest and taxes are below the standard deduction ($3200 for a married couple) are ineligible for the program and must pay the full $1000 out of their own pockets.

As a nation, we want to encourage home ownership. But a program that automatically excludes 75% of the people from participation and provides the greatest aid to the richest families is indefensible.

I therefore propose that the deductions for mortgage interest and property taxes be converted to a tax credit that will be available to all homeowners for their principal residence. The tax credit will substantially eliminate the upside down effect of the present deductions and provide substantial additional tax benefits to low and middle income homeowners. The new credit will be available to those using the standard deduction implicitly contained in the zero bracket, so that it will assist young families as they seek to purchase their new -- and increasingly expensive -- first homes. The amount of credit will be a flat percentage of the taxpayer's home mortgage interest and property taxes. The percentage will be set at a level to produce the same overall revenue loss as the present deductions -- about $10 billion at fiscal 1977 levels.

In addition, the change should be prospective -- it should apply only to residences acquired after July 1, 1977, to avoid the disruption of settled homeownership arrangements for those who have acted in reliance on the present system.

c. Charitable Contributions. The deduction for charitable contributions is the principal means by which the federal government encourages and supports individual giving to public and private charities. I strongly support this objective.

But there are two major defects in the structure of the present charitable deduction. It is unfair and it is in danger of being squeezed out of existence. Both of these problems can be remedied by appropriate action.

The unfairness is clear. The charitable contribution deduction is basically a federal matching grant program. As with the other itemized deductions, the extent of the government share is a function of the donor's tax bracket. Since the deduction is available only to itemizers, there is no incentive to charitable giving for the 75% of taxpayers who do not itemize their personal deductions.

The following schedule shows the federal matching grant made available through the deduction to donors in various tax brackets for each $1 of their own private after-tax funds given to charity:

Donor's Tax Bracket	Owner's Out-of-Pocket Gift (net of deduction)	Government Matching Grant
Standard Deduction	$1	$0.0
Itemizers:		
20%	$1	0.25
25%	$1	0.33
40%	$1	0.67
50%	$1	1.00
60%	$1	1.50
70%	$1	2.33

In each case the donor has given precisely the same amount from his own pocket. Yet the government share goes up because of the donor's tax bracket, not because he has increased the size of his own gift.

Data prepared for the Filer Commission reveal that in 1971, donors using the standard deduction gave almost $3.5 billion to charity. These gifts were entirely from their own funds, with no tax deduction provided. One-half of one percent of the population -- the richest Americans -- also gave about $3.5 billion to charity in 1971. But only one-third of this amount represented the private funds of these wealthy donors; the other two-thirds was the government share made available through the charitable contribution deduction. This situation is simply not defensible from the standpoint of basic fairness.

Moreover, reliance on the deduction as the principal means of encouraging charitable gifts is a dead end street for charities. There are two tax trends that are continually reducing the scope of the deduction:

-- At one end of the income scale, the standard deduction is constantly increasing, thereby eliminating more and more people from the incentive program.

-- At the other end of the income scale, there is strong pressure to reduce the top tax bracket to 50%, with reductions throughout the income scale.The result is to reduce the potency of the incentive provided by the tax deduction (as the above table demonstrates).

Thus, the current tax trends are adverse to the charitable contribution deduction as an effective incentive to encourage private gifts to charity.

If, in the 1978 legislation, Congress reduces tax rates and adopts other reforms, charity is a clear loser in terms of federal funds it is now receiving through the deduction. Only if a totally different method of encouraging charitable giving is adopted can charity be assured of continued and badly needed federal incentives to private giving.

I therefore recommend a major change in the federal system of encouraging private philanthropy. The present charitable contributions deduction should be replaced by a flat tax credit for all charitable gifts. The credit could, for example, be set at 30% of the taxpayer's gift and would be available to all donors, whether or not they use the standard deduction. This credit will provide the same $6 billion in federal funds to charity as is presently involved in the deduction; more important, the credit will insure continued and increasing federal support for charity. Under this system, every person's gift would be matched by the same percentage federal matching grant, regardless of the donor's tax bracket.

To insure ease of administration, it may be necessary to employ an annual "qualifying contributions" level,and provide the tax credit only for contributions in excess of that level. Under this approach, small contributions -- determined on the basis of a flat dollar amount or a percentage of adjusted gross income -- would not generate a tax credit; taxpayers would not have to keep records of small contributions, and the IRS would incur no audit responsibilities for such contributions. The qualifying contributions level, if necessary, would be established after consultation with IRS officials, in order to determine the optimal level from the standpoint of ease of administration and the fairness of the credit program.

The use of the tax credit technique as an incentive for charitable contributions would remove the program from the vagaries of tax rate changes and standard deduction increases. This proposal would achieve greater fairness and a more rational nationwide program to stimulate private charitable contributions. It will obviously require readjustment in the strategy of solicitations by institutions that currently rely on large contributors. But that readjustment will be necessary in any event because of other changes coming in the tax laws. And I believe the tax credit route will provide greater benefits for all charities than the current unfair system.

d. Other Itemized Deductions. The balance of the itemized personal deductions should be repealed. These include principally the gasoline tax deduction, the deduction for state and local taxes (other than property taxes on homes), and the deduction for consumer interest, but other minor deductions would be repealed as well:

-- The gasoline tax deduction should be repealed as part of our national energy plan.

-- The deductions for state and local taxes are actually crude forms of revenue sharing, and they should be integrated into the regular revenue sharing program. The deductions should therefore be phased out over a five-year period, commencing with the year in which the present revenue sharing system is extended. The increased tax revenues could, if Congress desires, be added to the direct revenue sharing funds, so that state and local governments could reduce their own burdensome and usually regressive taxes.

-- The deduction for consumer interest is available only to a privileged few consumers -- the upper income 25% who presently itemize. Repeal of this deduction would promote fairness and simplicity.

e. Effect of Itemized Personal Deduction Proposals. When fully implemented, the above proposals would markedly increase the fairness of the individual income tax system and would result in overall simplification. The present itemized deductions ultimately would be replaced by only two tax credits -- one to encourage homeownership and one to encourage charitable contributions. The balance of the deductions would be phased out, and the revenues used to fund direct programs in appropriate cases. As a result, the tax forms and tax record-keeping would be greatly simplified, and needed national programs would be made fairer.

C. PREFERENTIAL TREATMENT OF INCOME

1. Capital Gains at Death. The most serious defect in our present income tax system is the failure to tax gains on property transferred at death or by gift. The Tax Reform Act of 1976 improved the situation somewhat, by eliminating the former tax exemption for such gains. Under present law, heirs or donees must carry-over the same basis which the property had in the hands of the original owner. However, no taxes are imposed on the gain until the property is ultimately sold. As a result, tax on the gain can be deferred indefinitely The effect of the carry-over basis rules enacted in 1976 is to create a pronounced lock-in effect for owners of low basis, high appreciation property.

Implementation of Capital Gains at Death is an Essential Prerequisite to Reduction of the Top Marginal Rates to 50%. The Treasury's Tax Reform Studies and Proposals issued in 1969 revealed that a significant number of taxpayers derive dividend income each year in the hundreds of thousands -- or in some cases, millions -- of dollars. Yet, these same taxpayers paid little or no capital gains taxes. These individuals simply held on to their highly appreciated corporate stocks and passed them on to their heirs, without ever paying tax on the gain.

This same situation can be expected to continue under the current carry-over basis rules. Thus, a reduction in the top rate of tax on dividends from 70% to 50% would constitute a large tax reduction for these individuals, with no compensating tax on their capital gains. Therefore, before we should even contemplate a reduction in the top tax rate to 50%, we must adopt a tax on gains at death or by gift.

As under prior proposals I have advanced, an exemption would be provided for gains on property transferred between spouses. In addition, liberal averaging rules would be provided.

Some charitable institutions rely today to a significant extent on gifts of appreciated property. I considered two different approaches to this issue in formulating these comprehensive tax reform proposals. First, the itemized deduction for charitable contributions could be retained, but the appreciation in value of the property would be regarded as income, subject to tax. Second, the deduction could be converted to a tax credit, but the gain in value of the property would <u>not</u> be subject to tax.

I have chosen the second approach, because it provides greater benefits than the first approach for donors of appreciated property, and hence greater protection for institutions, notably colleges and universities, that rely on gifts of appreciated property. Therefore, under the proposal, a donor of appreciated property will receive a tax credit equal to 30% of the fair market value of the property, and, as under present law, will incur no tax on the appreciation in value of the property.

2. <u>Inerest on Tax Exempt Bonds</u>. Two major types of tax-exempt bonds are currently marketed -- general purpose state and local bonds and industrial development bonds. Both types of bonds have been revealed by several studies to be highly inefficient and wasteful. And the existence of tax-exempt interest prohibits us from achieving any truly fair tax system in which income from all sources is subject to taxation. However, different actions are required with respect to the two categories of tax-exempt bonds.

<u>With respect to industrial development bonds</u>, the various exemptions provided in 1969 should be repealed and the interest on all such bonds issued after July 1, 1977, should be fully subject to federal income tax.

In 1976, the total volume of bonds issued under each of two of the industrial development bond exemptions -- hospital bonds and pollution control bonds -- exceeded the <u>total</u> of all types of industrial development bonds issued in 1968. Thus, the exemptions created in the 1969 Act now exceed the total of the problem that existed before Congress acted in 1969. It must be kept in mind that these bonds are not for the benefit of state and local governments, but are solely for the benefit of private, profit-making businesses. There is no justification in tax fairness for continuing the exemptions. The existence of the exemptions constitutes a wasteful and artificial subsidy to reduce the building costs of private industry.

As to general purpose bonds, a direct federal interest subsidy is needed to supplement the tax exemption technique. Increasingly, state and local officials recognize the need for this additional financing technique. I hope that Congress will adopt the taxable bond option subsidy that I have introduced as a supplement to the tax exemption for general purpose state and local bonds. I am confident that the taxable interest subisidy will prove attractive to governors, mayors, and other local officials.

3. Withholding on Interest and Dividends. To insure that all taxpayers report and pay their proper taxes on interest and dividend income, we should institute withholding on interest and dividends paid by major borrowers -- notably corporations, banks, governmental units and insurance companies. There is a significant gap between amounts paid and amounts reported for tax purposes each year. This gap must be filled to insure that recipients of dividends and interest pay tax on the same current basis as wage earners.

D. TAX TREATMENT OF THE FAMILY

A number of distinct but interrelated problems have emerged in our tax treatment of the various family units. Some are concerned with the disparity in tax treatment between single persons and married couples. Others see present rules as imposing a "marriage penalty" where both spouses work. Still others see the rules as creating a tax preference for married couples where only one spouse works outside the home. Present law deals with these problems in a manner -- or more accurately, in a variety of ways -- that is satisfactory virtually to no one.

I believe that these various issues can be resolved in a way that will produce a simplified and fairer tax system for all family units, regardless of size, work characteristics, or number of dependents.

I recommend that the following actions be taken:

1. A single, unified rate schedule will be used by all taxpayers, whether single, married or head of a household.

2. To insure fair treatment among married couples, joint returns will be filed by all married persons.

3. A special tax credit will be provided for two wage earner families and heads of households with dependents.

4. The present basic personal exemption of $750 will be converted to a tax credit equal to $200-$250.

The above proposals would accomplish several objectives:

First, married persons will pay tax under the same rate schedule as single persons.

Second, two wage earner families and two single working persons contemplating marriage will incur a similar level of tax liability by virtue of the special tax credit for two wage earner families. The marriage penalty would thus be eliminated.

Third, one wage earner married couples would receive the benefits of the reduced tax rates I have proposed.

Fourth, taxpayers in low and middle income groups would receive tax reductions, as a result of changing the personal exemption to a tax credit.

I believe that the proposals outlined above would constitute major steps toward fairer and more simple tax treatment of all family units in the United States.

E. TAX AID FOR DEPENDENT CHILDREN

Present law also grants a $750 personal exemption for each dependent. This is a modest allowance primarily intended to help families meet the costs of raising children. I strongly favor the objective. But tax exemptions are an unfair way to provide the needed family assistance.

The value of the present dependent's exemption is a function of the family tax bracket. A child produces $525 in tax benefits for the 70% tax bracket family; $375 for a 50% bracket family; $150 for a 20% bracket family; only $105 for a 14% bracket family; and nothing for a family that is below the taxable income level without the exemption.

Congress would never approve a system of direct children's allowances structured in this unfair way. And we should not tolerate such unfairness within the present tax system.

I propose that the present dependents' exemptions should be replaced by a tax credit of $200-$250 per dependent. In addition, the credit should be refundable to families for whom the credits exceed tax liablity.

This action will provide needed tax relief for low and middle income families; it would remove from the tax system the implication that children of wealthy families are "worth more" than children of lower income families; and it would insure that poverty level families receive the same allowance for children as families with tax liability.

V. CORPORATE AND BUSINESS TAXATION

In the area of corporate and business income taxation, the three themes -- fairness, simplicity and efficiency -- are applicable, but in different contexts and with different emphases than in the individual income tax.

A. PROPOSALS TO STIMULATE CAPITAL INVESTMENT

To insure a continued, steady growth in our productive capacity, I urge the adoption of the following measures to stimulate investment and production in the private sector:

-- Provide an additional 5% investment tax credit for incremental investments above an average figure based on the capital investments by the taxpayer for the three preceding years.

-- Make the entire 15% investment credit (basic 10% plus incremental 5%) refundable so that taxpayers who have little or no tax liability -- including qualifying tax exempt organizations -- can benefit from the investment subsidy.

-- Reduce the top corporate rate to 45%.

-- Increase from $3,000 to $9,000 the amount of losses from the sale of investment assets that can be deducted by an investor against his ordinary income.

1. Incremental and Refundable Investment Credit

The investment tax credit has emerged over the past 15 years as a most effective tool to stimulate investment in productive capital assets. The two principal problems with the credit as presently structured are (1) that it is not as efficient as it should be in producing increased investment comparable to the federal revenue expended, and (2) that small and new businesses and the tax-exempt sector of our economy either are excluded from or derive little assistance from its benefits.

The revisions I propose will permit the investment tax credit more fully to realize its potential as an effective fiscal tool. The utilization of an incremental investment credit will increase the efficiency of the credit. A Library of Congress study last year examined the various techniques for stimulating increased investment by U.S. business. An incremental and refundable investment credit was found superior to other methods such as more rapid depreciation.

I am not recommending that the entire investment credit be placed on an incremental basis. But it is important that we employ the incremental technique when we raise the credit above the 10% figure. Any increase in the 10% rate on a flat basis run the risk of substantial inefficiency -- as the data last spring revealed with respect to the inability of firms to utilize currently the full benefits from increasing the rate from 10% to 12%. Retention of the present 10% rate will insure that no major disruption in investment planning will occur. Use of an incremental approach for an increase in the credit to 15% will insure that a marked stimulus is offered to increased investment -- and hence increased employment.

The second major change in the investment credit -- to make it refundable -- is designed to structure the credit in a fairer manner and to insure that many who could make significant investments are not discouraged from doing so by the artificial limits now contained in the credit mechanism. Under present law, a taxpayer can utilize the investment credit only to the extent of 50% of tax liability in a given year. (Any excess can be carried back three years and forward five years). This limit effectively eliminates from the program most new and many small businesses, as well as businesses that are in parts of the country or in industries that have suffered from prolonged adverse economic conditions. It also excludes non-profit institutions such as hospitals, colleges and universities. These elements of the private sector all have one thing in common: They do not incur tax liability, if any, in amounts sufficient to utilize the investment credit. But they are also all potential or actual purchasers of capital equipment and they employ millions of people across the country.

If Congress had decided to implement the current investment subsidy as a direct grant program run by the Commerce Department, it would not have occurred to us to require the existence of tax liability to the Treasury as a precondition for obtaining the government subsidy. Indeed, we have in place direct federal programs to assist in capital construction, and the tax status of the recipient is not a relevant factor in any of them. Some are specifically for charitable organizations such as hospitals, colleges and universities. The fact that we decided to run the government's principal investment subsidy program through the tax system does not of itself provide any convincing reason to exclude from the program businesses and institutions that would not have been excluded had the program been conducted through direct government grants.

I am aware of the concern of some economists that a refundable investment credit may provide a subsidy to poorly managed or inefficient businesses. This concern can be met by requiring the Treasury to monitor the refundable feature and report to the Congress whether these fears are being realized. If so, the refundability feature could be modified by, for example, a provision that denied the refund to an established business that has experienced habitual losses. Such a technique could be used to distinguish the poorly run firms from those that are the victims of economic conditions beyond their control.

I am convinced that a refundable and incremental investment credit would provide the most equitable and efficient stimulus to capital investment. Per dollar of revenue loss, it would provide the most effective incentive for new capital formation of the proposals currently under consideration.

2. Reduction of Corporate Tax Rate From 48% to 45%

The proposed changes in the investment credit are primarily directed toward small businesses, newly created firms, expanding companies, and the non-profit sector. To help the large numbers of other firms, it is also appropriate to provide a reduction in the top corporate tax rate from 48% to 45%. This change will primarily benefit large corporations. It is justified, I believe, because of the changes in the individual tax rate schedule and the reforms in the corporate tax preferences that are discussed below. Historically, the top corporate rate has been somewhat below the highest individual tax rate. With the proposed reduction in individual rates to a top marginal rate of 50%, a reduction in the top corporate rate is also appropriate. Moreover, the elimination of inefficient tax subsidies enables us to provide a lower corporate rate that is applied to more realistically defined corporate profits.

3. Increase in Limit on Deduction for Investment Losses

Under present rules, net capital losses may be deducted by individual investors against ordinary income only to the extent of one-half of those losses; the deduction is also subject to a maximum deduction of $3,000 each year. Thus, $6,000 in net capital losses are required to generate the maximum deduction.

These limitations are necessary because of the preferential treatment given to capital gains under current law. Since only one-half the gains are taxed, deductions may be allowed for only one-half the losses.

With the removal of the preferential treatment of capital gains, the limitation on the deductibility of net capital losses may be considerably relaxed. I propose that net capital losses be deducted in full up to a maximum limit of $9,000 each year. The net capital losses may be deducted dollar for dollar against ordinary income.

Tripling the limit on the deduction of net investment losses should be a substantial boost to entreprenurial and risk investment. Many economists feel that liberal loss deduction rules are a more potent incentive to risk-taking than is the preferential treatment for capital gains. By increasing the loss deduction, we can achieve a major gain in fairness and provide a powerful economic stimulus to job-generating investment activity.

B. REPEAL OF TAX PREFERENCES

The favorable changes in business and investment taxation that I am recommending can be adopted only if at the same time Congress eliminates the existing inefficient and unfair tax preferences that apply primarily to corporate and investment activity.

I propose the following major reforms in this area:

-- Repeal of the Asset Depreciation Range (ADR) system of depreciation.

-- Complete repeal of percentage depletion.

-- Repeal of the preferential capital gain rate for corporations.

-- Requirement of accrual accounting for all farm corporations with gross sales of $2 million or more per year.

1. Repeal of ADR

The ADR system is a technique of accelerated depreciation unwisely adopted by Congress in 1971 at the urging of the Nixon Administration. This system permits a business to reduce artificially the expected useful life of its assets and then take depreciation deductions based on the shorter life. ADR is a radical departure from traditional and sound tax and accounting principles, which require deductions for depreciation to be taken over the actual useful life of an asset in order accurately to reflect the taxpayer's income. The ADR-permitted 20% deviations from guideline lives should be repealed and we should return to sound tax depreciation principles.

In addition to the distortions in tax accounting produced by ADR, the system also is seriously deficient as an effective incentive for capital investment. The comparative Library of Congress study in 1976 on tax incentives for capital formation found that accelerated depreciation rules such as ADR are highly wasteful, and produce far less in capital investment than is lost by the Treasury in revenues.

It was a mistake to adopt ADR in 1971 and it would be a mistake to fail to repeal it as part of a comprehensive tax reform bill.

2. Complete Repeal of the Percentage Depletion Deduction

The time has come for Congress to complete the job begun in 1975 and repeal the balance of percentage depletion for all minerals. Recent studies of the problem have revealed the inefficiency of the deduction as a method of encouraging exploration for and development of natural resources. And there is no more pernicious symbol of tax unfairness than percentage depletion.

My recommendation for complete repeal of percentage depletion is buttressed by the recently released report by the prestigious National Commission on Supplies and Shortages, whose membership included former Secretary of the Treasury William Simon, Senator Brock, L. William Seidman, former Assistant to the President, Alan Greenspan, James T. Lynn, former Budget Director, and other distinguished and knowledgable citizens. After reviewing the available evidence on the subject, the Commission recommended across-the-board repeal of the percentage depletion deduction:

> "In the absence of compelling evidence for its continuation, the Commission recommends the repeal of the percentage depletion allowance for minerals..."

Cost depletion would, of course, be continued.

3. Repeal of Preferential Capital Gains Rate For Corporations

A special 30% rate of tax is presently made available to corporations on their "capital" gains. As a conceptual matter, it has always been difficult to see why a business corporation should have a special rate for some kinds of gains realized by it in the conduct of its business.

With the repeal of the capital gains preference for individuals and the reduction of the corporate tax rate to 45%, there is no justification for continuing this tax preference. The goals of fairness, simplification and efficiency will all be advanced with this action.

The timber industry, of course, has relied on this tax preference in a special way. The preferential treatment thus granted to timber was severely and tellingly criticized in the 1968 Treasury Tax Reform Studies. The Report of the National Commission on Supplies and Shortages also questioned whether it could be justified. The timber industry has frequently argued that its capital gain preference was an offset to the percentage depletion deduction made available to other natural resources. But that purported justification disappears with the complete repeal of percentage depletion.

Nor does the capital gain preference encourage conservation efforts. The tax benefits are available regardless of the presence or absence of sound conservation practices. If federal assistance is needed in timber conservation the timber companies should work with the Interior and Agriculture Departments to develop effective, regulatory and/or direct financial assistance programs.

Fundamentally, there is no persuasive reason why the timber industry should not pay ordinary income tax rates on its profits, like any other business. The existence of the capital gains preference artificially distorts the profit picture of the industry and thus promotes the inefficient allocation of economic resources; it also produces blatant tax unfairness.

4. Accrual Accounting For Large Farm Corporations

The Tax Reform Act of 1976 began the movement to bring large farm corporations onto the same accrual accounting method that is required of all other comparable businesses. The basic policy of Congress is clear: The cash method of accounting should be reserved only for small, family farmers for whom the somewhat more complex accrual method might prove a burden.

The 1976 Act, however, contained some unwise exceptions to the accrual accounting requirement imposed on large farm corporations. These exceptions are major flaws in the Congressional policy, since they permit farm corporations that are neither small nor family controlled to continue to qualify for the cash method of accounting. Congress moved in the wrong direction here in 1977, by expanding the 1976 loophole to accommodate two of the largest chicken farms in the nation. It is time to undo this damage, and establish a coherent rule for all such operations.

To insure that the cash method is reserved to the true "small" farmer, I propose that the various exceptions to the accrual accounting requirement for farm corporations be repealed. In their place, an exception should be enacted for all small farm corporations with annual gross sales of less than $2 million. This rule will permit over 95% of all farm corporation tax returns to continue on the cash method of accounting. But large farm corporations would be required to shift to the accrual method to reflect their income properly for tax purposes.

C. PROPOSALS THAT SHOULD BE REJECTED: PARTIAL INTEGRATION OF CORPORATE AND PERSONAL INCOME TAXES; BASIS ADJUSTMENTS FOR INFLATION; AND VALUE ADDED TAX

In recent months, the press has contained reports of other proposals advanced from various quarters that have as their ostensible purpose the stimulus of capital formation. Most prominent among these are proposals to integrate partially the corporate and personal income taxes, to provide a basis adjustment for capital assets that would reflect inflation during the period of time the asset was held, and to enact a value added tax. All of these proposals should be rejected by Congress.

1. Partial Integration. Partial integration of the corporate and personal income taxes is an idea that is bad for business, bad for the tax system, and bad for the average taxpayer. It would introduce a whole new level of unacceptable complexity into our income tax system with no offsetting gains -- and indeed there would be substantial losses -- in tax fairness and capital formation.

From the standpoint of tax fairness, partial integration of corporate and personal income taxes is purely and simply tax relief for dividends. Over two-thirds of the dividends received by individuals in the United States go to those who comprise the top 10% of income recipients. Tax reduction for dividends, therefore, reduces progressivity by giving selective tax relief to those with the highest incomes. This special relief is made unnecessary by my proposal to reduce the top individual tax rate to 50%, and to reduce all brackets below that rate -- an action that provides equitable, across-the-board tax reductions to everyone, regardless of the source of income.

Moreover, partial integration produces rather than resolves problems of capital formation. Under the partial integration techniques most frequently advanced, tax relief is available only if a corporation distributes its earnings in the form of dividends. Firms that desire to retain earnings are therefore put under tax pressure to declare dividends, even if this action would not otherwise be in the best interests of their shareholders. Partial integration also creates substantial problems as to the proper treatment of dividends received by tax-exempt organizations and pension funds and as to its application in international transactions. A recent study of partial integration systems adopted in Western European countries has revealed that partial integration has failed to achieve any of the objectives sought to be achieved by those countries except one: the discouragement of investment from abroad. But discouraging investment from abroad is not a U.S. policy. And economists are virtually unanimous that partial integration will not achieve the objective of more capital formation. Business people, as they devote increasing study to the partial integration schemes, are reaching the same conclusions.

I am aware that the Treasury has been studying partial integration as one option for the President to consider. I sincerely hope that that option will be rejected by the Treasury and by the President. I am strongly opposed to inclusion of partial integration in a tax reform bill. I believe that objective analysis will reveal that the proposals I have advanced above will provide fairer and more efficient stimuli to business and investment actions than partial integration.

2. <u>Basis Adjustment</u>. I am likewise strongly opposed to suggestions that have been advanced to provide a <u>basis adjustment</u> to reduce the gain on the sale of assets purported to be attributable to inflation. The issue of inflation adjustments is one that impacts on many areas of the Internal Revenue Code. A selective

inflation adjustment that would benefit only those owning stocks, real estate, and other similar assets, cannot be justified. If we are going to start anywhere with inflation adjustments, let us start by providing annual deductions for the losses that the average low and middle income taxpayer realizes as the value of his savings account is reduced each year as a result of inflation. Inflation also affects those who own debt instruments such as U.S. Savings Bonds, corporate bonds, municipal bonds and the like. In fairness, an inflation adjustment would have to be provided to them also. Similar problems arise with respect to inventory adjustments and depreciation allowances.

But is there any persuasive evidence that we need to start down the road of indexing the tax system for inflation? Economists who have looked at the matter have generally concluded that the rate of inflation being experienced in the United States does not warrant across-the-board indexing of our tax system. Indeed, indexing, in the view of many economists, could have an adverse effect on our fight against inflation and accelerate the very inflation we are trying to bring under control.

Thus, there is <u>no</u> case for selective inflation adjustments for owners of capital assets. And there is little evidence that this is an appropriate time for the U.S. to consider indexing the entire tax system for inflation. I strongly oppose any proposals to introduce inflation adjustments into our tax system.

3. <u>Value Added Tax</u>. Another suggestion that should be rejected is the value added tax. The VAT is just a national sales tax in fancier clothing. There are many objections to such a proposal. First, it is a sales tax and thus impinges on a tax that is widely used by state and local governments. This is not the time for federal preemption of a major source of local government revenues. Second, if VAT is going to be a

"simple" system it will be unfair. If it is going to be progressive, it will be complex. There is simply no need for adding one more tax to the federal structure within which the vested interest lobbyists will start burrowing new loopholes. Third, the tax is not easy to administer and will add new collection and audit burdens on the already over-extended IRS. Anyone who has lived in Europe for any time knows that the VAT is widely ignored in daily transactions and there is little that IRS tax administrators can do to control the tax avoidance. Finally, shifting to VAT could ease the pressure to accomplish our principal task: To produce a fairer, more simple and more efficient income tax system.

D. TIGHTENING OF EXPENSE ACCOUNT LIVING RULES

One area of the tax laws that is a source of substantial irritation to the average taxpayer concerns expense account living. Wherever one turns one sees high living consumption of the best food from the finest restaurants, occupancy of the best seats in the ball park, and use of the most expensive hotel rooms by the most over-privileged group in our country -- the expense account livers. There are few more vivid symbols of the disgrace of our current tax laws than the martini lunch, the first class fare, and the front row seat.

I have no objection if a business wants to provide expense accounts to allow its executives and employees to live a life of luxury, one that is beyond the reach of the overwhelming majority of our average income citizens. But what I do object to is that these same citizens are required to pay for the expense account life because corporations and businesses take deductions for the costs incurred to provide these personal perquisites.

I therefore propose major changes to insure that if business wants to provide luxury living to their executives they do it with their own funds -- hopefully scrutinized more carefully by their shareholders -- and not with tax deductible dollars.

My proposals include:

1. No deductions for the portion of airplane tickets attributable to first class air fare, and strict controls by the IRS to prevent the abuse of corporate jets.

2. No deductions for the costs of tickets to sporting events, night clubs, theaters or similar entertainment, including luxury boxes in arenas or stadiums.

3. No deductions for dues at country clubs or private clubs, or for entertainment on yachts or at other vacation retreats.

4. Deductions for attending conventions should be limited to necessary travel, the government per diem rate for the area, and registration costs (excluding costs attributable to food and entertainment).

5. Deductions for out-of-town food, lodging and business entertainment should be limited to the government per diem allowance for the area.

6. No deductions for "business" meals -- everyone has to eat and the cost of food should not become deductible because a few business phrases may happen to emerge from the martini haze.

The above changes are substantial and far reaching. They will change the life styles of many who have become accustomed to receiving Treasury subsidies for their personal living expenses. But the changes will go a long way toward restoring tax fairness and eliminating a gross inequity in our democratic society.

VI. TAXATION OF INTERNATIONAL TRANSACTIONS

In 1975 and 1976, Congress gave considerable needed attention to the tax rules that apply to U.S. individuals and corporations carrying on business, investing or working outside the U.S Unfortunately, as in other areas, the changes adopted were of a piecemeal nature. The result was incomplete reform and unnecessary complexity. I propose that we complete the job to simplify, make fairer and more efficient the U.S international tax rules by:

-- Repealing DISC.

-- Repealing the tax deferral on earnings of U.S. controlled foreign subsidiaries.

-- Repealing the exclusion for income earned abroad by U.S. citizens.

A. REPEAL OF DISC

At the conclusion of the Senate debate on the Tax Reform Act of 1976, the clear winner in the contest for the tax preference with the least justification was DISC. Study after study revealed its inefficiency as a means of increasing exports and its irrelevancy in a world of fluctuating currencies. Significantly, in the first objective study of DISC by the Treasury released this spring, no claim was made that DISC created any jobs, and no dollar amount of increased exports was claimed. What emerged clearly was a picture of a $1 billion annual giveaway to upper levels of the Fortune "500", as a supposed incentive to conduct the export operations they would have undertaken in any event.

Congress in 1976 retained two-thirds of DISC as the result of specious arguments advanced by former Treasury and Commerce Department officials and a massive, jet powered lobbying effort by big business. But now, with the support of an objective Treasury Department, I trust that DISC can be interred for good in the next tax reform bill. I recommend that repeal of DISC be accomplished with a 10-year spread forward of the increased taxes that would accompany repeal.

B. REPEAL OF TAX DEFERRAL ON EARNINGS OF U.S. CONTROLLED FOREIGN SUBSIDIARIES

A. U.S. corporation that decides to conduct a separate business activity has a choice of four forms of conducting that operation: (1) a U.S. branch or division; (2) a U.S. subsidiary; (3) a foreign branch or division; or (4) a foreign subsidiary. The impact of the U.S. income tax is identical as to the first three forms -- the U.S. imposes a single corporate tax on the current earnings of the operation whether those earnings are actually paid over to the parent company or not. But if the fourth method is adopted -- the controlled foreign subsidiary -- the U.S. defers its corporate income tax until the subsidiary's earnings are returned to the U.S. The financial benefit is determined by the difference between the U.S. corporate tax rate and the rate applied, if any, in the country in which the subsidiary is operating.

The unfairness created by tax deferral for U.S. controlled foreign subsidiaries is thus obvious. But the provision has important economic effects adverse to U.S. interests. The only way a company can obtain the benefits of tax deferral is to invest funds abroad and keep the earnings generated by those funds out of the U.S. In a time of capital needs in the U.S., this is the wrong result. While we do not wish to create artificial tax barriers to investment abroad, it certainly makes no sense to continue tax incentives to encourage businesses to export and keep abroad capital needed in the U.S.

I do wish to emphasize three technical aspects of my proposal to tax currently the earnings of U.S. controlled foreign subsidiaries. First, earnings and profits of all foreign subsidiaries will be computed on a consolidated basis. Thus losses in one country can offset earnings in another. Second, the foreign tax credit will be fully available where foreign taxes have been paid on earnings taxed to the U.S. parent under my proposal. Third, the change will be phased in over a period of 5 years.

C. REPEAL OF EXCLUSION FOR INCOME EARNED ABROAD BY U.S. CITIZENS

The 1976 Act also modified the exclusion from income enjoyed by some U.S. citizens working in foreign countries. However, up to $15,000 can still be tax-free to a U.S. citizen working abroad. On tax fairness grounds, it is impossible to justify a rule that taxes in full the first $15,000 of a worker's earnings if he works in the U.S., but imposes no U.S. tax at all on that income if he works in another country.

The 1976 Act did reduce the benefits of the tax exemption, but the result was reached by an excessively complex technique.

We should simply repeal the exclusion outright and allow a full foreign tax credit for taxes paid to the country in which the U.S. citizen is working. This is the only action that will achieve complete tax fairness between U.S. citizens working here and those working abroad.

I have considered carefully the arguments advanced for continuing the exclusion. Some argue that the exclusion is needed because of higher housing and educational costs in some countries, especially developing countries. (One may note that housing costs more in Washington, D. C, than in many other states, but no one argues that government employees coming to serve in Washington should get a tax exemption because of that fact.) At bottom, proponents of the exclusion are really arguing that U.S. interests require that we subsidize housing and education costs for U.S. workers abroad.

Whether this is so or not is a matter that should be presented to the Commerce Department for its consideration. If substantial subsidies are warranted, they should be provided by direct grants. In this way the allowances could be tailored so that financial help could be given to employees of particular businesses in specified countries and for specified costs, the subsidization of which would further U.S. interests. The revenue cost would be far less than the scatter gun approach of a tax exclusion, the aid would be targeted more efficiently, and there would be no impairment of tax fairness.

VII. WEALTH TRANSFER TAXATION

The Tax Reform Act of 1976 contained the most sweeping changes in our system of taxing wealth transfers that had been enacted in 30 years. In large measure the direction of those changes was desirable. However, because of the hasty and unusual procedure followed in enacting the estate and gift tax provisions, there were gaps in the bill and mistakes were made in some of the policy judgments. I believe it is important that we recognize that the 1976 Act was not the final -- and in many respects not the desirable -- word on reform of our wealth transfer tax system.

Without going into detail, I do want to outline those areas that merit further attention by the Treasury and the Congress. Some of the proposals could be effected quickly; others indicate areas requiring further study.

A. ESTATE AND GIFT TAXES

1. Full Unification of Estate and Gift Taxes

The 1976 Act provided a unified rate schedule for the estate and gift taxes. But the taxes themselves were not fully unified. Different rules still apply depending on whether the transfer is by gift or at death.

The most notable difference is that taxable transfers by gift more than three years before death do not include the amount of the gift tax itself. On the other hand, the tax base for gifts made within three years of death and for transfers at death includes the amount of the transfer tax. In effect, a deduction is granted for the taxes paid on certain transfers, but not others.

In addition, there are a number of instances in which one set of rules applies to a transfer during life, but a different set of rules applies if the same property is transferred at death.

These discrepancies should be eliminated and a fully unified transfer tax structure adopted.

2. The Increases in the Exemption Level Should be Stopped at $120,000

The Congress in 1976 unwisely approved an increase in the transfer tax exemption level from $60,000 to $175,625 by 1981. This will mean that the transfer taxes will apply to less than 2% of decedents dying each year. Even at the $60,000 level, only 7% of decedents' estates incurred any estate tax each year.

The tripling of the exemption level in the 1976 Act was not justified. If anything, the $60,000 figure was too high. But I recognize that it is difficult to turn the clock back.

I therefore propose that the scheduled increases in the unified transfer tax credit be halted after 1977. This will produce an exemption level of about $120,000, a figure that is more than adequate to exempt "small" estates from transfer taxation.

3. Provision of an Unlimited Marital Deduction

The 1976 Act increased the marital deduction, but stopped short of providing the full exemption of transfers between spouses that should be adopted. Increasingly, we are recognizing that the efforts of both spouses inextricably contribute to the accumulation of a family's wealth. No transfer tax should be imposed until the death of both spouses and the property passes on to the next generation. By judicious use of existing tax rules, many well advised couples can now achieve this result.

But an unlimited marital deduction should be a matter of right, not of expert tax planning. I therefore propose that an unlimited marital deduction be adopted.

4. <u>Modification of Tax Preferences</u>

The following tax preferences should be modified or repealed:

a. The premium payment test should be reinstated to tax life insurance policies in the estate of any insured who pays the premiums on the policy or possesses any incident of ownership in the policy; this will prevent the avoidance of tax on life insurance policies that is presently possible even though the insured pays all the policy premiums.

b. The exclusion for certain payments from qualified retirement plans should be repealed.

c. The 5% reversionary interest requirement in section 2037, concerning transfers taking effect at death, should be repealed.

d. The charitable contributions deduction should be converted to a tax credit (for reasons similar to those outlined above concerning the income tax deduction).

e. The $3,000 annual per donee exclusion should be converted to a tax credit available only to exempt gifts up to $1,500 per donee each year. The credit should not be available for gifts in trust and should phase out as gifts exceed $1,500 to any donee in a year.

f. The orphans' deduction should be repealed; it benefits only children of the wealthiest families. A national program of financial aid to orphans is important, but it must be structured to benefit the neediest orphans most and the wealthiest the least.

B. THE GENERATION-SKIPPING TAX

The 1976 Act did include a long-needed rule to impose a tax on certain transfers of property that skip generations. Unfortunately, the provisions adopted contain gaping loopholes that probably make the tax a nullity for extremely wealthy families the very group that makes the greatest use of generation-skipping transfers. Congress adopted the current policy, but the technical implementation of the policy was almost fatally defective.

The following changes are imperative to make the generation-skipping tax effective in insuring that a transfer tax will be imposed on property as it passes from generation to generation regardless of the form of transfer selected:

1. The tax must apply to any transfer -- whether outright or in trust -- that skips a generation.

2. The tax must apply to generation-skipping transfers of trust income as well as of trust principal.

3. The $250,000 exemption for generation-skipping transfers to grandchildren must be repealed.

4. The tax must apply if a generation is skipped, whether or not an intervening generation has an interest in the property transfered.

5. The transition rule adopted in 1976 was much too generous. Estates of the wealthiest American families will continue to go untaxed for up to 100 years. The 10-year transition rule recommended by the Finance Committee in 1976 should be adopted.

VIII. CONCLUSION

The recommendations for tax reform that I have proposed can move our tax system from a "disgrace" toward a "model" for the human race. Not all will agree with the details of each proposal -- not even those who are as strongly committed to tax reform as I am. But differences in detail should not obscure what I hope will be larger agreement on the proposition that only fundamental reform of our tax structure will satisfy the expectations of the American people for a fairer, more simple, more efficient tax system. In this larger perspective, I hope these proposals will serve as a stimulus and a framework within which constructive analysis and dialogue can take place.

I believe that the President has both the desire and the ability to mobilize a powerful national constituency for fundamental tax reform. I urge him to be bold, and to encourage the Treasury, beset by lobbyists bent on retaining or winning special privileges, to be bold as well.

THE WHITE HOUSE
WASHINGTON

July 18, 1977

Hugh Carter -

For your information.

Rick Hutcheson

RE: Weekly Mail Report

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

C

Week Ending 7/8/77

MEMORANDUM FOR THE PRESIDENT

FROM: HUGH CARTER

SUBJECT: Weekly Mail Report (Per Your Request)

Below are statistics on Presidential and First Family:

INCOMING	WEEK ENDING 7/1	WEEK ENDING 7/8
Presidential	31,800	35,200
First Lady	1,800	1,550
Amy	620	600
Other First Family	110	100
TOTAL	34,330	37,450
BACKLOG		
Presidential	10,130	13,040
First Lady	770	700
Amy	50	50
Other	0	50
TOTAL	10,950	13,840

DISTRIBUTION OF PRESIDENTIAL MAIL ANALYZED

Agency Referrals	55%	61%
WH Correspondence	21%	20%
Direct File	11%	11%
White House Staff	8%	6%
Other	5%	2%
TOTAL	100%	100%

NOT INCLUDED ABOVE

Form Letters and Post Cards	23,224	22,689
Mail Addressed to WH Staff	17,024	15,044

cc: Senior Staff

MAJOR ISSUES IN
CURRENT PRESIDENTIAL ADULT MAIL
Week Ending 7/8/77

ISSUE	PRO	CON	COMMENT ONLY	NUMBERS OF LETTERS IN SAMPLE
Pres.'s Position re: Israel Returning Land Won in '67 War	7%	93%	0	3,071
Support for Retaining Panama Canal	99%	1%	0	344
Support for Pres.'s Decision re: B-1 Bomber 6/30/77	84%	16%	0	5,412
Subsidization of Fourth Class Mail with First Class Mail Funds	0	100%	0	79
Support for Release of Ukrainian Helsinki Group Leaders	100%	0	0	66
Support for Animal Welfare Act	100%	0	0	287
Support for Continued Good Relations with Taiwan	92%	8%	0	98
Support for Lock and Dam Projects Alton, Illinois	7%	93%	0	498
		TOTAL IN SAMPLE		9,855

MAIL SUMMARY - WEEK ENDING JULY 8, 1977

The following statements are based on debriefings of mail analysts.

B-1 -- A large influx of mail has arrived from persons pleased with the President's decision to cancel construction of the controversial B-1 bomber. "To keep a campaign pledge that is consistent with what I understood you to be committed to ... warrants a note of profound admiration and respect." The negative mail on this subject is mostly from people concerned about unemployment and a strong national defense.

The neutron bomb is now the new target of many writers who also have been opposed to the B-1.

ISRAEL -- The volume of mail pertaining to the Mideast situation continues to increase rapidly, and most writers are not in favor of Israel returning the land won in the '67 war. Mail on this issue is coming from all over the country.

HUMAN RIGHTS -- People have seized the words "human rights" and are applying them to every argument, cause and issue imaginable. Domestic concerns, including gay rights, inflation and the Wilmington Ten, have taken precedence over foreign affairs in the minds of many writers. "If you (the President) are so concerned about the violation of human rights in other countries, why don't you do anything about the abuse of human rights here (in the U.S.)?"

LOCKS AND DAM -- Railroad industry employees near St. Louis continue to campaign against the expansion of the Alton Locks and Dam 26 Project, arguing that they would prefer to have it repaired, not rebuilt. The possible loss of jobs is the main concern here.

ANIMALS -- The condition of laboratories and other places licensed or registered under the Animal Welfare Act has caused concern, and people are asking President Carter to insure that sufficient funds be appropriated for quarterly inspection of labs.

CASTRO -- The Cuban Premier is the focal point of critical mail concerning the possible normalization of relations between Cuba and the U.S. Basically, most of the letter writers do not trust the man.

PANAMA -- Letters continue to arrive from persons espousing U.S. retention of the Panama Canal.

TAIWAN -- Pro-Taiwanese sentiment is imparted by persons sending telegrams, Mailgrams and form letters about Red China.

THE WHITE HOUSE
WASHINGTON

July 18, 1977

Frank Moore

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

RE: Weekly Legislative Report

~~Rick has original~~

THE WHITE HOUSE
WASHINGTON

July 18, 1977

Robert Strauss -

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

Re: H.R. 1550 & H.R. 2850
2849

THE PRESIDENT HAS SEEN.

Frank
J

THE WHITE HOUSE
WASHINGTON

ADMINISTRATIVELY CONFIDENTIAL

July 16, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM: FRANK MOORE

SUBJECT: Weekly Legislative Report

1. ENERGY

<u>House Ad Hoc Committee</u>: While the Speaker and Chairman Ashley very much appreciated the offer to have the Ad Hoc Committee come to a White House meeting on Tuesday, they felt it may be premature at this time. They indicated, however, that such a meeting may be necessary before the Committee concludes consideration. good

--The Ad Hoc Committee projects working from July 20 through July 25, on a continuing basis, including the weekend and with night sessions if necessary, to report out the bill by July 25. The Rules Committee is expected to act on the rule July 29, and floor action is scheduled for the week of August 1.

--Following is the agenda for Ad Hoc Committee markup:

(1) RESIDENTIAL AND COMMERCIAL CONSERVATION
Title I
Part A-Energy Conservation Programs for Existing Residential Buildings, including the provisions of H.R. 7893 (Ashley's bill) as reported.
Part C-Energy Conservation/Schools and Hospitals.
Part G-Subpart 3-Demonstration of Solar Heating and Cooling in Federal Buildings.

Title II
Part I-Residential Energy Tax Credit.

(2) TRANSPORTATION
Title I
Part B, Subpart 2-Disclosure of Automobile Fuel Inefficiency Tax and Disclosure of Automobile Fuel Efficiency Rebate.
Part G-Federal Energy Initiatives.
Part G, Subpart 1-Federal Vanpooling Programs.

Title II
Part II-Transportation.

(3) CRUDE OIL EQUALIZATION TAXES
Title II
Part III-Crude Oil Tax.

(4) NATURAL GAS
    Title I
      Part D-Natural Gas

(5) INCREASED COAL USE AND OIL AND GAS CONSERVATION
    Title I
      Part F-Amendments to Energy Supply and Environmental Coordination Act

    Title II
      Part IV-Excise Tax on Business Use of Oil and Natural Gas.
      Part V-Credit Against Tax on Business Use of Oil and Gas
      Part VI-Changes in Business Investment Credit to Encourage Conservation of, or Conversion From, Oil and Gas or to Encourage New Energy Technology.

(6) PUBLIC UTILITY REGULATORY POLICIES
    Title I
      Part E, Subpart 1-General Provisions
              Subpart 2-National Electric Rate Design Policies
              Subpart 3-Bulk Power Supply
              Subpart 4-Natural Gas Rate Design Policies

(7) MISCELLANEOUS
    Findings-
    Goals-
    Title I
      Part B, Subpart 1-Energy Efficiency Standards for Consumer Products

    Title II
      Part VII-Miscellaneous Provisions
      Part VIII-Congressional Procedures for either House Veto

2. APPROPRIATIONS

Foreign Assistance Appropriations: The Foreign Operations Appropriations Subcommittee voted to report H.R. 7797, the foreign assistance bill to the full Committee after agreeing to:

--delete all House language which would bar continued participation by the US in the World Bank family and the three regional developments banks;

--eliminate the across-the-board 5 percent cut in the total appropriations added by the House;

--adopt the Administration's budget requests for the Asian Development Bank, the International Finance Corporation, and the African Development Fund;

--adopt the House Appropriations Committee's recommendations for the Inter-American Development Bank, the World Bank and the International Development Association (IDA);

--adopt an Inouye amendment which, in effect, prohibits payments to the banks until compensation of the US Executive Directors is no higher than that of the Assistant Secretary of the Treasury for International Affairs ($50,000), and in a similar vein, limits the alternate Executive Directors compensation to that of a US civil service level V.

Treasury is generally satisfied with the bill as it emerged from the Subcommittee. In general, this exercise confirmed once again the value of getting heavily involved in appropriations matters at the Subcommittee level. Full Committee mark-up is tentatively scheduled for next Monday.

We expect continued attempts on the Senate floor to place restrictions on IFI participatio

Defense Appropriations: On Wednesday, the Senate Appropriations Committee, by a vote of 9 to 5, deleted the $1.46 billion B-1 funding request from the Appropriations Bill. Though not firm, it appears that the Senate and House will proceed with Senate floor action on the Appropriations Bill which the House has passed, i.e., without consideration of our budget amendment. Concurrently, the Senate and House Armed Services Committees will hold hearings on a supplemental authorization bill which address the cruise missle add-ons. After Congress returns from the August recess on September 7, it will take up the add-on portions of the budget amendment.

--We have word that Senator Nunn or Senator Riegle may introduce an unfavorable amendment to the appropriations bill on the Senate floor this week. The amendment would prohibit DOD from procuring services from the private sector when such services are currently performed by existing base facilities or personnel. Because the amendment could hamstring DOD operations when existing base facilities and personnel are insufficient or inadequate, the Department is strongly opposed.

3. PUBLIC FINANCING

--Senator Byrd, in a confidential conversation with Dan Tate, indicated he will probably take up the Congressional Public Financing and FECA amendments bill (S. 926) this week in the face of a certain filibuster. The Majority Leader considers this an important test of his leadership. If he can break a filibuster on a "liberal" bill, it will consolidate his position among that constituency.

--We have done substantial spadework on this measure, coordinating with Senators Clark, Kennedy and Mathias and, behind the scenes, with Common Cause. The vote will be extremely close. We count exactly 60 relatively firm votes for cloture. We may have a chance with Senators Sparkman and Morgan as well, but both will need Presidential encouragement before the vote.

--In addition, we will request that the Vice President preside during key portions of the cloture proceeding. Although his vote cannot be counted to help break 60, his presence will have obvious impact.

I'll help

4. VOTER REGISTRATION

--The bill is tentatively scheduled for House floor action next Thursday. Our aim is to gather about 280 votes in favor of the Administration supported, amended bill in order to demonstrate enough support for favorable Senate action. Chairman Thompson has tentatively agreed to accept an amendment by Rep. Bonker (D-Wash) which would make post-card registration mandatory, but if the amendment is adopted, it may well weaken overall support for the bill.

5. FARM BILL

--The House will begin general debate on the bill on Tuesday, but will not consider amendments until Wednesday. The House leadership would like to complete action on Thursday, but is prepared to continue on Friday and into the following week if required. The Administration will support the bill, in general, and cooperate closely with Chairman

Foley to resist any substantial amendments. Agriculture will propose the following amendments: 1) establish the target price for 1978 crop rice at $7.55 per hundredweight, to bring it in line with other commodities; 2) provide authority to the Secretary to establish target prices for sorghum and barley based on cost of production, using the same formula as is used with respect to corn, wheat, and cotton; 3) provide authority to the Secretary to require, as a condition of eligibility for loans and target prices in set-aside year, that producers follow normal farming practices; 4) provide low-yield payments for farmers in drought areas in 1977 based on planted acreage, instead of allotted acreage; 5) strike the section authorizing appropriations for USDA for solar energy research in agriculture (existing authorities and appropriations are adequate to permit transfer from ERDA of funds for solar energy research in USDA: and, 6) reduce the payment level for wool and mohair to a level comparable to income support levels for crops.

--As many as 40 floor amendments are anticipated, almost all of which will be opposed by the Administration. Most of these amendments deal with payment limitations, price escalations, or elimination of programs the Administration supports. Two areas in which the pressures for potential adverse amendments may be hard to withstand include the level of 1977 wheat prices and the sugar support program. USDA congressional liaison will begin personal visits on the Hill on Monday, concentrating on about 180 targeted Members. Secretary Bergland will head up the overall lobbying effort.

6. MINIMUM WAGE

--The House Labor Standards Subcommittee (acting Chairman Phil Burton) will meet again on Monday to markup the bill. The Labor Department will be contacting Members and staff to indicate the Administration's desire to keep the bill as simple as possible, to clarify the Administration's position on the tip credit (our position is to oppose any change in the tip credit, but not to actively lobby for or against any such changes), and to clarify our position against the youth subminimum. The full Education and Labor Committee may markup the bill on Wednesday. Chairman Perkins intends to file a report on Friday, July 22, and hopes to secure floor action the last week in July. The bill that emerges from the Committee will probably eliminate the tip credit provisions, but it could easily be amended on the floor to restore those changes.

--On the Senate side, the Labor Subcommittee (Chairman Williams) will begin minimum wage hearings on July 28. Secretary Marshall is scheduled to be the lead off witness.

7. HOSPITAL COST CONTAINMENT

--Next week there will be either hearings or markup in the two House subcommittees (Paul Roger's Commerce Health and Environment Subcommittee and Dan Rostenkowski's Ways and Means Health Subcommittee) and the Senate Human Resources Health Subcommittee (Kennedy) on Hospital Cost Containment.

--Rogers, who earlier did not want to consider Hospital Cost Containment until after the August recess, will now resume hearings on the Administration bill and his own bill beginning Monday, July 18. HEW regards this as a very favorable development in terms of timing.

--Rostenkowski will begin marking up his newly introduced Hospital Cost Containment bill on Thursday, July 19. Rostenkowski introduced his bill on Thursday, July 14 and it is co-sponsored by 5 of the other 7 Democrats on the Health Subcommittee (Corman, Vanik, Cotter, Keys, Brodhead). The major differences between Rostenkowski's bill and the Administration bill are that Rostenkowski provides for an exclusion for hospitals with fewer than 4,000 admissions per year, a flat 9 percent increase in hospital revenues regardless of the rate of inflation in the economy and provides for a grouping of hospital which allows the Secretary to reward or penalize hospitals on the basis of their ability to restrain costs.

--The Senate Human Resources Health Subcommittee (Kennedy) is scheduled to markup Hospital Cost Containment on Thursday, July 21. However, we anticipate that the Subcommittee will move to refer without prejudice the Administration proposal, the Schweiker bill (which is primarily concerned with encouraging states to establish their own cost containment plan) and perhaps a new Kennedy proposal to the full Committee for consideration the following week.

8. BLACK LUNG BENEFITS

--Both the House and Senate may consider their versions of the bill next week. The Senate version, preferred by the Administration, would establish a Black Lung Disability Fund in the Treasury Department to administer Part C, the Labor Department's program. This fund would be financed entirely by an excise tax on the sale of coal. The House version would establish an industry-operated fund for Part C financed by assessments on coal operations based on coal production. OMB advises approximately $1.1 BILLION of general revenue over the next five years would be earmarked for black lung beneficiaries under the House version.

Fight against House version

9. THE McKINNEY HEARINGS

--Bob McKinney "knocked 'em dead" in his Friday appearance before the Banking Committee. Chairman Proxmire told Bob that he was the best prepared, most effective nominee to appear before him in his 20 years in the Senate.

great!

--We will lose 3 Democrats (Proxmire, Riegle and Sarbanes) and probably one of two Republicans (either Brooke or Heinz) on the vote next Friday. The Committee vote would then be 11 to 4 in favor.

10. AWACS SALE TO IRAN

-- Next Monday, the Humphrey Subcommittee will hear testimony from key critics of the sale proposal -- Senators Culver and Eagleton and the GAO. Culver and his supporters have agreed to meet with Secretaries Vance and Brown for a private discussion of the issues, probably on Wednesday. Culver now has 16 cosponsors of his resolution of disapproval. Humphrey will hear from Administration witnesses on Friday.

-- The Zablocki and Hamilton Subcommittees of the House International Relations Committee have invited Admiral Turner and other Administration witnesses to testify on Thursday, July 21.

-- State believes Admiral Turner's ability to persuade the Committees that his national security concerns have been met will be critical. State also believes that anticipated news stories about additional major arms sales to the Persian Gulf area are bound to increase concern on the Hill.

FLOOR ACTIVITIES FOR WEEK OF JULY 18

House

Monday -- 14 suspensions (2/3 vote, no amendments) as follows:

1) H.R. 6936, Federal Election Commission Amendments. The bill authorizes extending the appropriation for the FEC through September 30, 1978.

2) H.Res. 372, National Family Week. The resolution designates the week of November 20, 1977, as National Family Week.

3) H.R. 7012, Paperwork Reduction and Agriculture Census Amendments Act of 1972. To be managed by Rep. Lehman (D-Fla), Chairman, Census and Population Subcommittee.

Bill Summary: The bill would fix by statute the definition of a farm for census purposes and mandate a 40% reduction of the paperwork burden on respondents to the agriculture census. According to OMB, the Administration is opposed to enactment of this bill because (1) the the federal statistical agencies should have the flexibility to change the definition of a farm administratively when necessary and (2) legislatively reducing the amount of paperwork (a desirable objective) would impair the administrative flexibility needed to make sound decisions in the planning of the agriculture census. Administrative efforts that will result in a significant reduction of respondent burden are currently underway in the Census Bureau.

Make sure we will reduce paperwork even more

4) H.R. 2387, Increase in Salaries for the Director and Deputy Director of OMB. According to OMB, the Administration supports enactment of this bill.

5) H.R. 6974, Additional Supergrade Positions in Administrative Office of U.S. Courts. According to OMB, the Administration defers to the Administrative Office of the U.S. Courts on this legislation, which affects the judicial branch.

6) H.R. 6975, Increase in Number of Administrative Law Judges. According to OMB, the Administration supports enactment of this bill.

7) H.R. 4319, Retention of Life and Health Insurance Benefits During Retirement After Five Years of Federal Service. According to OMB, the Administration supports enactment of the bill.

8) H.R. 3755, Restoration of Certain Civil Service Survivor Annuities. According to OMB, the Administration does not support this bill because it would set an undesirable precedent for having retirement liberalizations apply retroactively.

May veto

9) H.R. 1550, Reduction in Tariff on Sparkplug Insulation. According to OMB, the Administration opposes enactment of this bill. The reduction of U.S. duties should be undertaken in the context of trade negotiations which offer the opportunity to secure reciprocal foreign concessions of benefit to U.S. exporters. There are no such overriding considerations in this case.

Tell Strauss to be strict - in order to minimize need for vetoes same 10). H.R. 2849, Suspend Tariff on Rubber Matress Blanks. According to OMB, the Administration has no objection to this bill as amended but would prefer that it not be made effective retroactively.

Same 11) H.R. 2850, Suspend Tariff on Latex Sheets. According to OMB, the Administration has no objection to this bill as amended but would prefer that it not be made effective retroactively.

" 12) H.R. 3387, Continue Tariff Suspension on Synthetic Rutile. According to OMB, the Administration has no objection to this bill.

" 13) H.R. 5263, Suspend Tariffs on Certain Bicycle Parts. According to OMB, the Administration has no objection to this bill.

" 14) H.R. 5285, Clarify Tariff Treatment of Acrylic Resin Sheets. According to OMB, the Administration's position is under development.

--In addition, the House will consider 15 bills under unanimous consent.

Tuesday--H.R. 7171, Farm Bill. (Food Stamp Amendments as amendment)Begin consideration. To be managed by Rep. Thomas Foley (D-Wash), Chairman, Agriculture Committee.

Wednesday-H.R. 7171, Farm Bill. Conclude consideration. To be managed by Rep. Foley.

Thursday--H.R. 5400, Universal Voter Registration. To be managed by Rep. Frank Thompson (D-N.J.), Chairman, House Administration Committee.

Friday--H.R. 4544, Black Lung. To be managed by Rep. Carl Perkins (D-Kent.), Chairman, Education and Labor Committee.

H. Res. 70, Select Committee on Population. To be managed by Rep. James Delaney (D-N.Y.), Chairman, Rules Committee.

--The House may consider the following conference reports during the week:
H.R. 7556, Conference Report on State, Justice, Commerce, Judiciary Appropriations.
H.R. 7557, Conference Report on Department of Transportation Appropriations.

Senate

--On Monday, the Senate will consider the FY 78 Defense Appropriations Bill.

--The next order of business could be the Black Lung bill or the Public Financing of Congressional Campaigns bill.

--The leadership has made no decision regarding scheduling of items other than the DOD bill.

THE WHITE HOUSE
WASHINGTON

July 18, 1977

Secretary Marshall
Stu Eizenstat
Hamilton Jordan

The attached was returned in the President's outbox today. It is forwarded to you for information. The original was forwarded to Bob Linder for appropriate handling.

Rick Hutcheson

cc: Bob Linder

RE: LABOR LAW REFORM MESSAGE

6

THE WHITE HOUSE
WASHINGTON

cc Marshall

for 11:00 Am announcement —
to HWJ today

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
	x	JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

☐	ENROLLED BILL
☐	AGENCY REPORT
☐	CAB DECISION
☐	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

☐	FOR STAFFING
☐	FOR INFORMATION
☒	FROM PRESIDENT'S OUTBOX
☐	LOG IN/TO PRESIDENT TODAY
☐	IMMEDIATE TURNAROUND

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		GAMMILL
		HARDEN
		HOYT
		HUTCHESON
		JAGODA
		KING

		KRAFT
		LANCE
		LINDER
		MITCHELL
		POSTON
		PRESS
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SCHULTZE
		SIEGEL
		SMITH
		STRAUSS
		WELLS
		VOORDE

THE WHITE HOUSE

WASHINGTON

July 17, 1977

MEMORANDUM TO: THE PRESIDENT

FROM: STU EIZENSTAT By D.R.

SUBJECT: Labor Law Reform Message

Attached is the proposed Labor Law Reform Message, which Secretary Marshall is scheduled to announce, at the White House press briefing room, at 11:00 A.M. on Monday.

In drafting the message, we worked closely with the AFL-CIO, and I think they will be pleased with the message's text.

The message has been reviewed and approved by Jim Fallows.

TO THE CONGRESS OF THE UNITED STATES:

I am transmitting to Congress proposals to make the laws which govern labor-management relations work more efficiently, quickly and equitably.

I have pledged to make Federal regulatory agencies more responsive to the people they serve. Government regulation only works well if it is fair, prompt and predictable. Too often this has not been the case with the regulatory process that governs collective bargaining and labor-management relations. Our labor laws guarantee employees the right to choose freely their representatives, and to bargain collectively with employers over wages, fringe benefits and working conditions. But legal rights have limited value if many years are required to enforce them.

The National Labor Relations Board (NLRB) administers our labor laws. In recent years there has been growing agreement that those laws should be amended to ensure that the Board can function more effectively to protect employees rights. While the great majority of employers and unions have abided by the labor laws, a few have unfairly abused the procedures and practices under which the Board must operate.

As a result, the American Bar Association, many Federal courts, and the NLRB's own Task Force each recently suggested ways to improve the Board's procedures. The NLRB's internal report, which proposed a number of administrative changes, has already produced some beneficial changes. But it seems clear that legislation is actually needed to enable the Board to administer the labor laws properly.

Unnecessary delays are the most serious problem. In even the simpler cases, the NLRB typically takes almost two months to hold an election to determine whether workers want union representation. The enforcement of Board decisions is also subject to unnecessary delay: lengthy proceedings before the Board and extended litigation can sometimes delay final action for years.

The problem of delay has been compounded by the weakness of the Board's remedies. One of the reasons the regulatory process has worked so slowly is that a few employers have learned that, because of the problems the Board has in enforcing its decisions, delay can be less costly than initial compliance with the law. In one case, for instance, workers who were illegally fired for their union activities in 1962 are still awaiting payment for lost wages.

Because of these problems, workers are often denied a fair chance to decide, in an NLRB election, whether they want union representation. The same problems often deny employers the predictability they too need from the labor laws.

To help reduce the problems of delay, and to cure a number of related problems with our labor laws, I am today recommending to the Congress a set of reforms for the National Labor Relations Act. These reforms are designed to accomplish three important goals:

-- To make the NLRB procedures fairer, prompter, and more predictable.

-- To protect the rights of labor and management by strengthening NLRB sanctions against those who break the law.

-- To preserve the integrity of the Federal contracting process by withholding federal contracts from firms that willfully violate orders from the NLRB and the courts.

I believe these goals can be met through the following changes in our labor laws:

o An election on union representation should be held within a fixed, brief period of time after a request for an election is filed with the Board. This period should be as short as is administratively feasible. The Board, however, should be allowed some additional time to deal with complex cases.

o The Board should be instructed to establish clear rules defining appropriate bargaining units. This change would not only help to streamline the time-consuming, case-by-case procedures now in effect, but would also allow labor and management to rely more fully on individual Board decisions.

- The Board should be expanded from five to seven members. This change would enable the NLRB to handle better its increasing caseload.
- The Board should establish procedures that would allow two members of the Board to affirm summarily the less complex decision of its administrative law judges. Similar procedures have already been adopted by the Federal courts of appeal.
- All appeals of Board decisions should be required to be filed within 30 days of the Board's decision. If no appeal is filed, the Board should refer its orders to the courts for enforcement without further delay. This procedure is similar to that used by such other Federal regulatory agencies as the Federal Trade Commission.
- When employers are found to have refused to bargain for a first contract, the Board should be able to order them to compensate workers for the wages that were lost during the period of unfair delay. This compensation should be based on a fixed standard, such as the Quarterly Report of Major Collective Bargaining Settlements published by the Bureau of Labor Statistics (BLS). Workers would be entitled to the difference between the wages actually received during the delay and those which would have been received had their wages increased at the average rate for settlements reported during that period, as recorded in the BLS index.
- The Board should be authorized to award double backpay without mitigation to workers who were illegally discharged before the initial contract. This flat-rate

formula would simplify the present time-consuming back-pay process and would more fully compensate employees for the real cost of a lost job.

- The Board should be authorized to prohibit a firm from obtaining Federal contracts for a period of three years, if the firm is found to have willfully and repeatedly violated NLRB orders. Such a debarment should be limited to cases of serious violations and should not affect existing contracts. This restriction could be lifted under two conditions: if the Secretary of Labor determines that debarment is not in the national interest, or if the affected Federal agency determines that no other supplier is available.
- Under current law, the Board is only required to seek a preliminary injunction against a few types of serious union unfair labor practices, such as secondary boycotts or "hot cargo" agreements. The Board should also be required to seek preliminary injunctions against certain unfair labor practices which interfere seriously with employee rights, such as unlawful discharges.

There are related problems that should also be reviewed by the Congress in this effort to ensure that our labor laws fulfill the promise made to employees and employers when the Wagner Act was passed 42 years ago -- that working men and women who wish to bargain collectively with their employers, in a way fair to both, shall have a reasonable and prompt chance to do so. In that way, the collective bargaining system, which has served this country well, can be strengthened for the benefit both of American workers and employers.

I have asked the Secretary of Labor to work closely with the Congress in the months ahead to explore these and other possible ways of improving our labor laws.

I ask the Congress to move promptly to pass legislation implementing the reforms I have recommended.

Jimmy Carter

THE WHITE HOUSE,

July 15, 1977

EMBARGOED FOR RELEASE UNTIL AFTER 1:30 P.M. PRESS BRIEFING
FRIDAY, JULY 15

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

The President today sent Congress a plan to reorganize the Executive Office of the President (EOP). He also acted to reduce the White House staff and took other actions to change certain functions of the EOP.

These were the major results of these Presidential actions:

-- Reduce the number of full-time EOP staff positions from 1,712 to 1,459 -- a reduction of 15 percent.

-- Reduce the number of EOP units from 19 on January 20, 1977 to 12.

-- Reduce the number of full-time White House staff positions from 485 to 351 -- a reduction of 28 percent.

-- Create a new Policy Management System within the EOP to better develop Presidential agenda, assign priorities among issues and better present issues and options to the President. This system reinforces the notion that the White House and Executive Office staff must use their proximity to the President to insure that the full resources of the government and the public are brought to bear on Presidential decisions in a timely fashion.

-- Consolidate most of the present EOP administrative functions to a new Central Administrative Unit.

The current EOP contains 17 entities. The total budgeted authority of the EOP is approximately $80,000,000. The President's actions are expected to provide net savings of $6,000,000.

The proposed reorganization will discontinue the following units: Domestic Council, Office of Drug Abuse Policy, Council on International Economic Policy, Economic Opportunity Council, Office of Telecommunications Policy, Federal Property Council, Energy Resources Council. The President had previously eliminated the President's Foreign Intelligence Advisory Board and the Economic Policy Board.

This is a breakdown of the full-time staff positions and reductions

	Current Authorized Positions	Carter Reorg. Positions
Office of Vice-President	30	27
Intelligence Oversight Board	0	0
Office of Special Representative for Trade Negotiations	49	41
Office of Management and Budget	709	570
Central Administrative Unit	0	149
Domestic Council	40	43
National Security Council Staff	70	64
Council of Economic Advisers	42	35
Council on Wage and Price Stability	57	39
Office of Science and Technology Policy	32	22
Council on Environmental Quality	40	32
Office of Drug Abuse Policy	10	0
Economic Opportunity Council	0	0
Council on International Economic Policy	21	0
Office of Telecommunications Policy	41	0
Federal Property Council	0	
Energy Resources Council	0	0
White House Office	485	351
Other	86	86
Totals	1,712*	1,459

*Total compares to 1,655 full-time permanent positions in the Executive Office of the President in the previous administration.

The EOP reorganization is the first formal reorganization proposal which the President will make concerning the Executive Branch of government. The EOP reorganization is the result of a 3 1/2 month study by the President's Reorganization Project. The study involved a comprehensive assessment of policy processes and organizational structure.

The EOP Reorganization Study had the basic objectives of making the EOP more efficient and more responsive. In analyzing the activites of the current EOP units, the study team identified functions and units which could be transferred or eliminated and identified opportunities to improve the procedural process by which the Administration policy is made.

EOP UNITS AFFECTED

Unit	Result
White House Office	° Reduction in number of full-time positions ° Restructuring of some functions ° Control of use of temporaries, detailees, consultants
Vice President	° Maintain current functions and structure ° Slight staff reduction through transfer to Central Administrative Unit
Office of Management and Budget	° Internal reorganization of management arm to emphasize major Presidential intitiatives such as reorganization, paperwork reduction, and regulatory reform ° Staff reduction ° Transfer Advisory Committee Management Secretariat to GSA ° Transfer some statistical policy functions to Department of Commerce
Council of Economic Advisers	° Maintain functions and slight reduction of staff
Council on Wage and Price Stability	° Retained ° Request for additional positions will be reserved ° CEA Chairman will be Chairman of formal Council
Economic Policy Board	° Discontinued

Council on Environmental Quality	° Retains Presidential advisory, NEPA oversight, interagency coordination, and long range analysis activities ° Some operational functions to be transferred to EPA
Council on International Economic Policy	° Discontinue by allowing statutory authority to lapse on September 30, 1977
Domestic Council	° Domestic Council discontinued as statutory Cabinet committee ° Staff to be renamed Domestic Policy Staff ° Becomes the process manager for domestic and many economic policy issues
Economic Opportunity Council	° Discontinued
National Security Council	° Maintain current functions and structure with slight staff reduction
Special Representative for Trade Negotiations	° Maintain current functions and structure with slight staff reduction
Office of Telecommunications Policy	° Discontinued ° Small telecommunications staff retained in Domestic Policy Staff ° Management of government communications and arbitration of interagency disputes regarding frequency allocation transferred to OMB ° All other functions transferred to the Department of Commerce with a new Assistant Secretary for Communications and Information
Office of Science and Technology Policy	° OSTP retains those functions that provide advice to the President and support policy formulation, budget review, and National Security issues ° Reorganization functions of President's Committee on Science and Technology included in President's Reorganization Project effort ° Functions of the Federal Coordinating Council, Intergovernmental Science, Engineering, and Technology Panels and President's Committee on Science and Technology and OSTP reports would be vested in the President for redelegation ° FCCST functions to sub-Cabinet working group chaired by Science Adviser; ISETAP functions to intergovernmental relations with Science Adviser as chairman and Reports to NSF

Office of Drug Abuse Policy	° Discontinued ° An Adviser in the White House on drug abuse and international health continued ° Other functions vested in the President for redelegation
Energy Resources Council	° Functions will be transferred to new Department of Energy
Federal Property Council	° Executive Order of January 1977 rescinded; GSA to handle functions and conculut with Director of OMB as needed
Intelligence Oversight Board	° IOB retained
President's Foreign Intelligence Advisory Board	° Discontinued May 4, 1977

POLICY MANAGEMENT SYSTEM

The reorganization study found that there are limitations in how the present policy making system works to support the President on specific issues. To improve decisionmaking the President ordered the establishment of a more systematic process for the formation of domestic and economic policy. This process is called the Policy Mangement System (PMS).

PMS has the following advantages:

- Create a new capability to develop the President's domestic and economic policy. Policy agendas would be recommended by a committee of Presidential advisers, with the Vice President as Chairman.
- Strengthen the role of Cabinet Departments in developing Presidential policy by having the Departments involved in the early stages of policy formulation

The Domestic Policy Staff and National Security Staff will coordinate the process and assure that the resources of the government are brought to bear on the issue. They would also see to it that the views of Congress and the public are taken into account.

CENTRAL ADMINISTRATIVE UNIT

About 380 (22%) of the full-time, permanent EOP personnel are performing administrative support services in the EOP units. These services include: personnel, accounting, mail, library facilities, computer operations, messengers, payroll, etc. Most EOP entities outside of the White House and OMB are too small to provide a full complement of administrative services internally. They depend upon the White House, OMB, GSA, or some other Federal department for many of these services and sometimes upon more than one of these sources. This results in wide variation in the quality and completeness of administrative services in EOP and in uncoordinated administrative management for EOP as a whole. This has produced:

- o numerous service duplications;
- o inconsistent distribution of services;
- o excess capacity in some units and deficiencies in others;
- o missed opportunities for economies of scale; and
- o lack of cost control.

To address these deficiencies, administrative operations will be combined into a Central Administrative Unit in EOP to:

- o provide support in administrative services that are common to all EOP entities; and
- o provide technical support and coordination of the Zero Base Budgeting system in EOP.

Implementation of this proposal would result in:

- o estimated savings of approximately $1.1 million and 40 positions;
- o an administrative base on which to develop service innovations, and improve service outreach to EOP users;
- o a management focus for accountability, responsibility and monitoring of administrative services in EOP; and
- o a base for an effective EOP budget/planning system through which the President can manage an integrated EOP rather than a collection of separate units.

This is a significant innovation since the EOP has never before been analyzed as a single unified entity serving the President.

The central unit would beheaded by a Presidential appointee.

PERSONNEL REDUCTIONS

The reorganization will achieve significant efficiencies while simultaneously protecting the interests of Federal employees.

The procedures set out in Federal law and regulations for personnel placements and reductions will be systematically followed. There will be a placement program to place excess employees in positions for which they qualify elsewhere in the government.

SUMMARY OF PRESIDENTIAL DECISIONS

1. Reorganization Plan Decisions

   ° Establish Central Administrative Unit

   ° Establish Domestic Policy Staff (discontinue Domestic Council)

   ° Transfer certain functions of Council on Environmental Quality to the President for redelegation

   ° Discontinue Office of Drug Abuse Policy and vest functions in President for redelegation

   ° Create Assistant Secretary of Commerce for Communications and Information

   ° Discontinue Office of Telecommunications Policy and transfer functions to Commerce, OMB, and Domestic Policy Staff.

   ° Vest some Office of Science and Technology functions to the President for redelegation

   ° Vest functions of Economic Opportunity Council in the President for redelegation

   ° Transfer the Committee's Management Secretariat function of the Office of Management and Budget to the President for redelegation

II. Presidential Directives

   ° Improve Policy Process Management

   ° Define responsibilities between White House and OMB on Intergovernmental Relations matters

   ° Reduce staff of White House Office

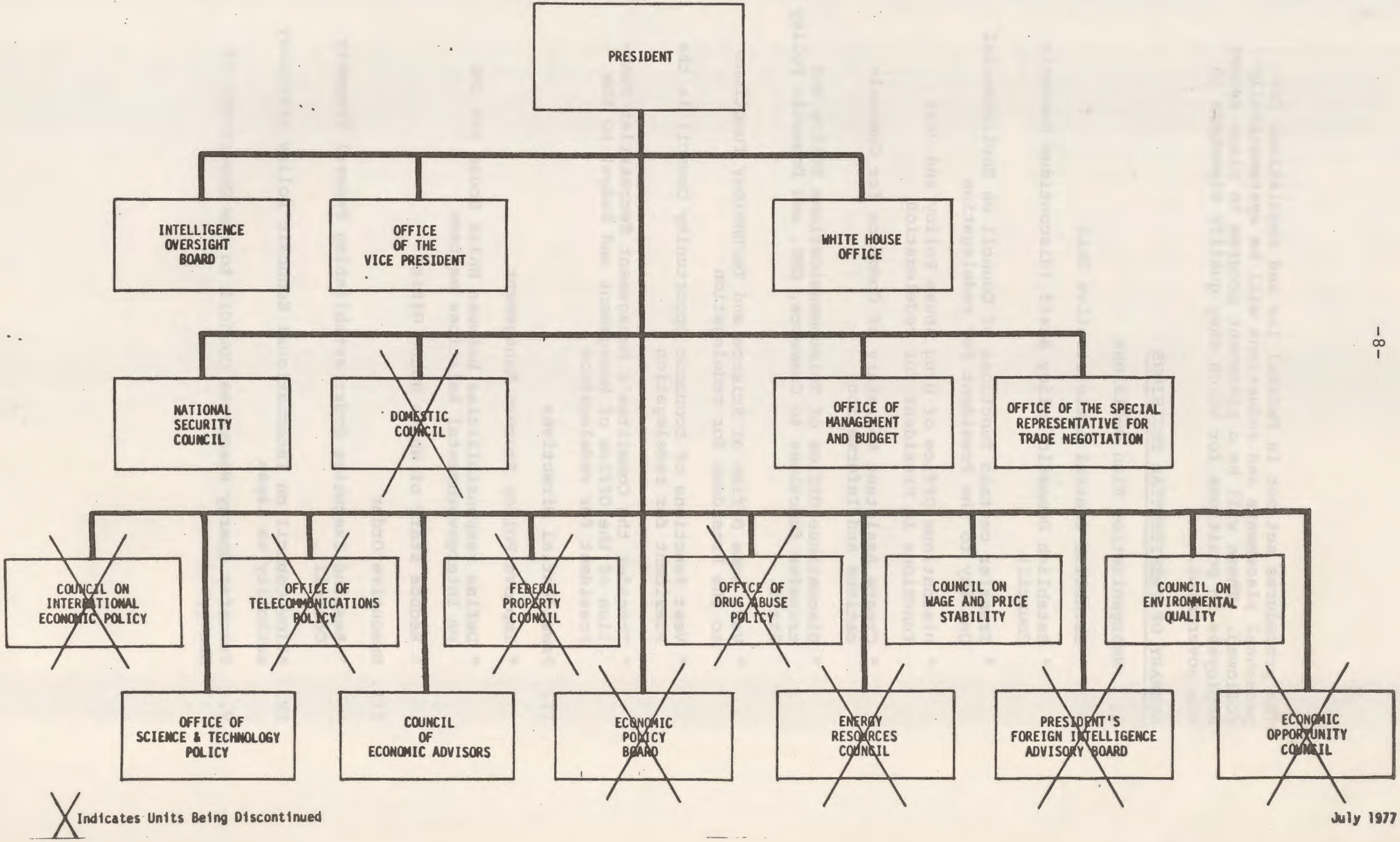
III. Executive Order

   ° Rescind Executive Order establishing Federal Property Council

IV. Allow Council on International Economic Policy statutory authority to lapse

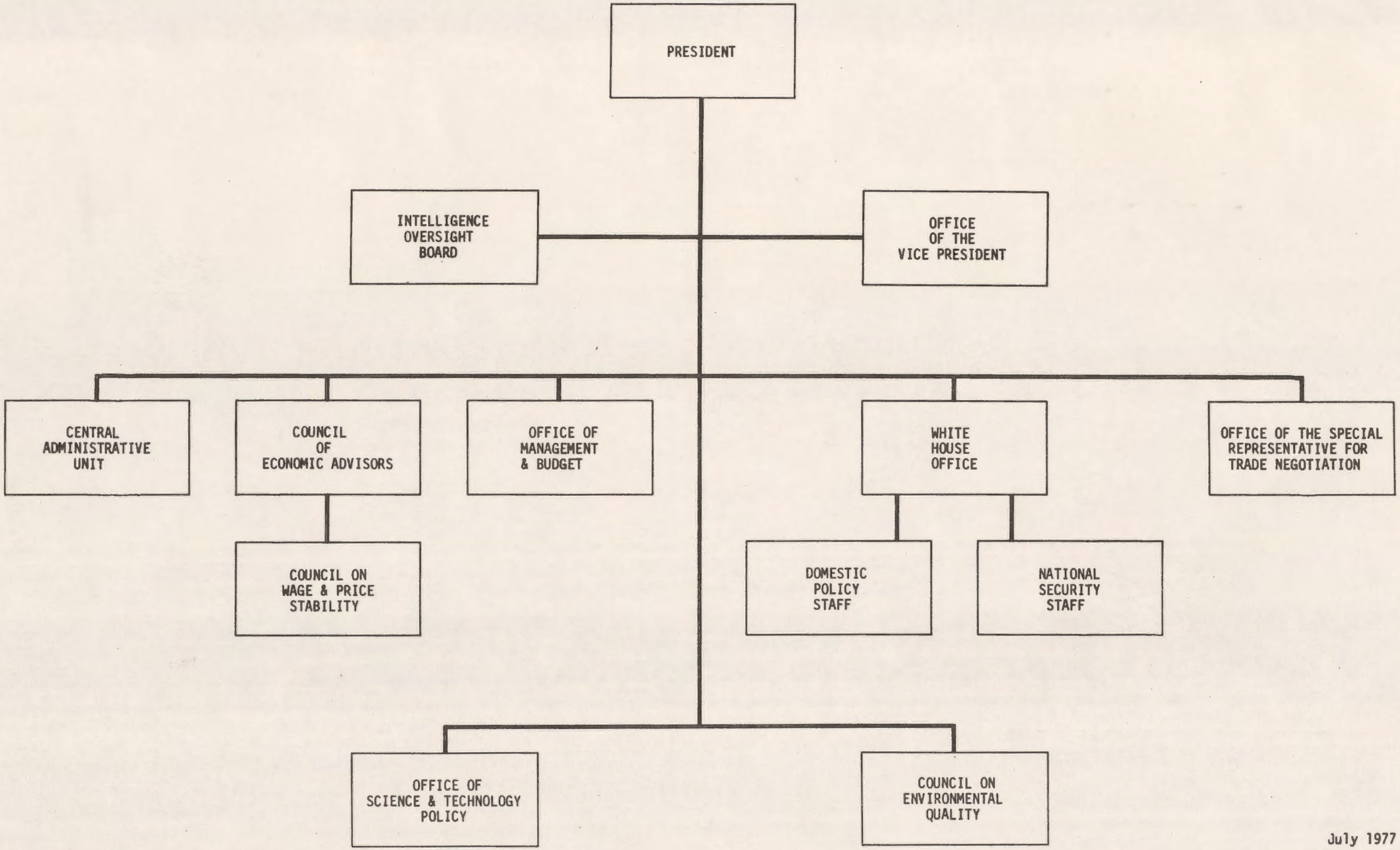
V. Transfer Energy Resources Council to new Department of Energy.

EXECUTIVE OFFICE OF THE PRESIDENT
January 20, 1977



July 1977

EXECUTIVE OFFICE OF THE PRESIDENT



July 1977